

1 HOUSE BILL NO. 213

2 INTRODUCED BY GALLIK

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING RETIREMENT LAWS; GENERALLY
6 REVISING THE PUBLIC EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME
7 WARDEN AND PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED
8 RETIREMENT SYSTEMS; GENERALLY REVISING THE VOLUNTEER FIREFIGHTERS' COMPENSATION
9 ACT; CLARIFYING TERMINOLOGY RELATED TO SERVICE CREDIT; CLARIFYING PROVISIONS
10 REGARDING THE PURCHASE OF SERVICE CREDIT; REVISING THE PURCHASE OF SERVICE CREDIT
11 FOR RESERVE MILITARY SERVICE; CLARIFYING DEFINITIONS WITH RESPECT TO COMPENSATION,
12 HIGHEST AVERAGE COMPENSATION, AND FINAL AVERAGE COMPENSATION; REVISING DISABILITY
13 PROVISIONS; CLARIFYING SURVIVORSHIP PAYMENT PROVISIONS; REVISING PROVISIONS RELATED
14 TO COURT SETTLEMENTS CONCERNING PAYMENT OF RETIREMENT BENEFITS; REVISING
15 DEFINITIONS IN THE DEFERRED RETIREMENT OPTION PLAN WITHIN THE MUNICIPAL POLICE
16 OFFICERS' RETIREMENT SYSTEM; AMENDING SECTIONS 7-33-2313, 19-2-303, 19-2-403, 19-2-506,
17 19-2-603, 19-2-702, 19-2-704, 19-2-706, 19-2-708, 19-2-709, 19-2-801, 19-2-802, 19-2-907, 19-2-908, 19-2-909,
18 19-2-1010, 19-3-108, 19-3-401, 19-3-403, 19-3-412, 19-3-503, 19-3-504, 19-3-505, 19-3-510, 19-3-511,
19 19-3-512, 19-3-513, 19-3-514, 19-3-521, 19-3-904, 19-3-906, 19-3-908, 19-3-1002, 19-3-1008, 19-3-1015,
20 19-3-1106, 19-3-1201, 19-3-1202, 19-3-1205, 19-3-1210, 19-3-1501, 19-3-2103, 19-3-2111, 19-3-2112,
21 19-3-2113, 19-3-2114, 19-3-2115, 19-3-2116, 19-3-2117, 19-3-2126, 19-3-2133, 19-3-2141, 19-5-101, 19-5-301,
22 19-5-409, 19-5-501, 19-5-502, 19-5-701, 19-6-101, 19-6-401, 19-6-502, 19-6-503, 19-6-601, 19-6-709, 19-6-801,
23 19-6-803, 19-6-804, 19-6-805, 19-7-101, 19-7-301, 19-7-312, 19-7-502, 19-7-601, 19-7-801, 19-7-803, 19-7-804,
24 19-7-805, 19-7-1001, 19-8-101, 19-8-301, 19-8-302, 19-8-308, 19-8-604, 19-8-701, 19-8-801, 19-8-901,
25 19-8-904, 19-8-905, 19-8-906, 19-9-104, 19-9-301, 19-9-403, 19-9-405, 19-9-406, 19-9-410, 19-9-411, 19-9-903,
26 19-9-1202, 19-9-1204, 19-9-1205, 19-9-1206, 19-9-1207, 19-9-1208, 19-13-104, 19-13-301, 19-13-403,
27 19-13-405, 19-13-406, 19-13-701, 19-13-704, 19-13-803, 19-13-1007, 19-17-108, 19-17-402, 19-17-403,
28 19-17-405, 19-50-102, AND 25-13-608, MCA; ~~AND~~ REPEALING SECTIONS 19-3-509, 19-3-1604, 19-6-802,
29 19-7-802, 19-8-902, 19-9-405, AND 19-13-404, MCA; AND PROVIDING AN EFFECTIVE DATE."

30

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Purchase of Montana public service. (1) (a) A member may, at any time before retirement, file a written application with the board to purchase as service credit in the member's retirement system all or any portion of the member's previous service credit in the public employees', judges', highway patrol officers', sheriffs', game wardens' and peace officers', firefighters' unified, or municipal police officers' retirement system to the extent that the member either has received or is eligible to receive a refund of accumulated contributions. To purchase this service credit, the member shall pay the actuarial cost of the service credit in the member's current retirement system, based on the system's most recent actuarial valuation and the annual compensation of the member, minus the employer contribution provided in subsection (1)(b).

(b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from the member's former retirement system to the member's current retirement system an amount equal to the employer contributions made on compensation during the member's former service, but no more than an amount equal to the normal cost contribution rate minus the employee contribution rate in the member's current retirement system according to the system's most recent actuarial valuation.

(2) (a) An active member may, at any time before retirement, file a written application with the board to purchase all or a portion of service credit for full-time service performed for the state or a political subdivision of the state. The member shall provide salary and employment documentation certified by the member's former public employer. To purchase service credit under this section, the member shall pay the actuarial cost of the service credit in the member's current retirement system, as determined by the board, based on the system's most recent actuarial valuation.

(b) The board is the sole authority under subsection (2)(a) in determining what constitutes full-time public service, subject to 19-2-403.

Section 2. Section 7-33-2313, MCA, is amended to read:

"7-33-2313. Powers and duties of chief -- request for assistance -- definitions. (1) The chief of every fire department shall inquire into the cause of every fire occurring in the town in which the chief serves as the chief and ~~must~~ shall keep a record of every fire. The chief ~~must~~ shall aid in the enforcement of all fire ordinances, examine buildings in the process of erection, report violations of ordinances relating to prevention or extinguishment of fires and, when directed by the proper authorities, institute prosecutions for the violation

of those ordinances, and perform other duties as may be imposed upon the chief by proper authority. The chief's compensation, if any, must be fixed and paid by the city or town authorities. The chief ~~must~~ shall attend all fires, with the chief's badge of office conspicuously displayed. The chief shall prevent injury to, take charge of, and preserve all property rescued from fires and return it to the owner on the payment of the expenses incurred in saving and keeping it. The amount of the expenses, when not agreed to, must be fixed by a justice of the peace.

(2) The chief shall devise and formulate or cause to be devised and formulated a course or plan of instruction or training program making available to each regular member of the chief's department not less than 30 hours of instruction ~~per each~~ year in matters pertaining to firefighting, ~~and the~~ The chief shall supervise the operation of the training plan or program and maintain training records for each current and former firefighter for use by the board THE PURPOSES OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD PROVIDED FOR IN 2-15-1009.

(3) If the county commissioners, trustees of a fire district, or governing body of a fire service area have not concluded a mutual aid agreement to protect an unincorporated town or village against natural incidents, emergencies, or disasters or incidents, emergencies, or disasters caused by persons, the chief may request assistance pursuant to 10-3-209.

(4) As used in this section, "incidents", "disasters", or "emergencies" has the meaning ~~ascribed to the term~~ provided in 10-3-103."

Section 3. Section 19-2-303, MCA, is amended to read:

"19-2-303. Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.

(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumptions adopted by the board.

(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.

(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(7) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.

(8) "Annuity" means:

(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or

(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

(9) "Benefit" means:

(a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit payment provided by a defined benefit retirement plan; or

(b) a payment or distribution under the defined contribution retirement plan, including a disability payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity purchased under 19-3-2124.

(10) "Board" means the public employees' retirement board provided for in 2-15-1009.

(11) "Contingent annuitant" means a person designated to receive a continuing monthly benefit after the death of a retired member.

(12) "Covered employment" means employment in a covered position.

(13) "Covered position" means a position in which the employee must be a member of the retirement system except as otherwise provided by law.

~~(14) "Credited service" or "service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate service or disability retirement or survivorship benefits under a defined benefit retirement plan.~~

~~(15)~~(14) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

~~(16)~~(15) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and that is not a defined benefit plan.

1 ~~(17)~~(16) "Department" means the department of administration.

2 ~~(18)~~(17) "Designated beneficiary" means the person designated by a member or payment recipient to
3 receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of
4 the member or payment recipient, including annuities derived from the benefits or payments.

5 ~~(19)~~(18) "Disability" or "disabled" means a total inability of the member to perform the member's duties
6 by reason of physical or mental incapacity. The disability must be incurred while the member is an active
7 member and must be one of permanent duration or of extended and uncertain duration, as determined by the
8 board on the basis of competent medical opinion.

9 (19) "Early retirement benefit" means the retirement benefit payable to a member following early
10 retirement, and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

11 (20) "Employee" means a person who is employed by an employer in any capacity and whose salary
12 is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying
13 retirement contributions pursuant to 7-11-105.

14 (21) "Employer" means a governmental agency participating in a retirement system enumerated in
15 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as
16 responsible for paying retirement contributions pursuant to 7-11-105.

17 (22) "Essential elements of the position" means fundamental job duties. An element may be considered
18 essential because of but not limited to the following factors:

19 (a) the position exists to perform the element;

20 (b) there are a limited number of employees to perform the element; or

21 (c) the element is highly specialized.

22 (23) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following
23 June 30.

24 (24) "Inactive member" means a member who is not an active or retired member.

25 (25) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as applicable
26 to a retirement system, as that code provided on July 1, 1999.

27 (26) "Member" means either:

28 (a) a person with accumulated contributions and service credited with a defined benefit retirement plan
29 or receiving a retirement benefit on account of the person's previous service credited in a retirement system; or

30 (b) a person with a retirement account in the defined contribution plan.

1 (27) "Membership service" means the periods of service that are used to determine eligibility for
2 retirement or other benefits.

3 (28) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost
4 method required to fund accruing benefits for members of a defined benefit retirement plan during any year in
5 the future.

6 (b) Normal cost does not include any portion of the supplemental costs of a retirement plan.

7 (29) "Normal retirement age" means the age at which a member is eligible to immediately receive a
8 retirement benefit based on the member's age, length of service, or both, as specified under the member's
9 retirement system, without disability and without an actuarial or similar reduction in the benefit.

10 (30) "Pension" means benefit payments for life derived from contributions to a retirement plan made from
11 state- or employer-controlled funds.

12 (31) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a
13 retirement system or plan in public trust.

14 (32) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll
15 covered by the defined contribution plan members that is allocated to the public employees' retirement system's
16 defined benefit plan pursuant to 19-3-2117 and that is adjusted by the board pursuant to 19-3-2121 to actuarially
17 fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member
18 selection of the defined contribution plan.

19 (33) "Regular contributions" means contributions required from members under a retirement plan.

20 (34) "Regular interest" means interest at rates set from time to time by the board.

21 (35) "Retirement" or "retired" means the status of a member who has been terminated from service for
22 at least 30 days and has received and accepted a retirement benefit from a retirement plan.

23 (36) "Retirement account" means an individual account within the defined contribution retirement plan
24 for the deposit of employer and ~~employee~~ member contributions and other assets for the exclusive benefit of
25 a member of the defined contribution plan or the member's beneficiary.

26 (37) "Retirement benefit" means:

27 (a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement,
28 early retirement, or disability retirement under a defined benefit plan of a retirement system. With respect to a
29 defined benefit plan, the term does not mean an annuity.

30 (b) in the case of the defined contribution plan, a benefit as defined in subsection (9)(b).

(38) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under one of the public employee retirement systems enumerated in 19-2-302.

(39) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

(40) "Service" means employment of an employee in a position covered by a retirement system.

(41) "Service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a defined benefit retirement plan.

(42) "Service retirement benefit" means the retirement benefit that the member may receive at normal retirement age.

~~(41)~~(43) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

~~(42)~~(44) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.

~~(43)~~(45) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.

~~(44)~~(46) "Termination of employment" or "termination of service" means that the member has severed the employment relationship with the employer and has been paid all compensation due upon termination of employment, including but not limited to payment of accrued annual leave credits, as provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the board was not party is not a payment due upon termination.

~~(45)~~(47) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

~~(46)~~(48) "Vested account" means an individual account within a defined contribution plan that is for the

1 exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the
2 income on all contributions in each of the following accounts:

3 (a) the member's contribution account;¹

4 (b) the vested portion of the employer's contribution account;¹ and

5 (c) the member's account for other contributions.

6 ~~(47)~~(49) "Vested member" or "vested" means:

7 (a) with respect to a defined benefit plan, a member or the status of a member who has attained the
8 minimum membership service requirements to be eligible for retirement benefits under the retirement plan; or

9 (b) with respect to the defined contribution plan, a member or the status of a member who meets the
10 minimum membership service requirement of 19-3-2116.

11 ~~(48)~~(50) "Written application" or "written election" means a written instrument, prescribed by the board
12 or required by law, properly signed and filed with the board, that contains all required information, including
13 documentation that the board considers necessary."
14

15 **Section 4.** Section 19-2-403, MCA, is amended to read:

16 **"19-2-403. Powers and duties of board.** (1) The board shall administer the provisions of the chapters
17 enumerated in 19-2-302.

18 (2) The board may establish rules that it considers proper for the administration and operation of the
19 retirement systems and enforcement of the chapters under which each retirement system is established.

20 (3) The board shall establish uniform rules that are necessary to determine service credit for fractional
21 years of service.

22 (4) The board shall determine who are employees within the meaning of each retirement system. The
23 board is the sole authority for determining the conditions under which persons may become members of and
24 receive benefits under the retirement systems.

25 (5) The board shall determine and may modify retirement benefits under the retirement systems.
26 Benefits may be paid only if the board decides, in its discretion, that the applicant is, under the provisions of the
27 appropriate retirement system, entitled to the benefits.

28 (6) In matters of board discretion under the systems, the board shall treat all persons in similar
29 circumstances in a uniform and nondiscriminatory manner.

30 (7) The board shall maintain records and accounts it determines necessary for the administration of the

1 retirement systems.

2 (8) Upon the basis of the findings of the actuary pursuant to 19-2-405, the board shall adopt actuarial
3 rates and rates of regular interest it determines appropriate for the administration of the retirement systems.

4 (9) The board shall review the sufficiency of benefits paid by the retirement system or plan and
5 recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under the
6 defined contribution plan that may be necessary for members and their beneficiaries to maintain a stable
7 standard of living.

8 (10) The board may implement third-party mailings under the provisions of 2-6-109. If third-party mailings
9 are implemented, the board shall adopt rules governing means of implementation, including the specification
10 of eligible third parties, appropriate materials, and applicable fees and procedures. Fees generated by third-party
11 mailings must be deposited in ~~an account in the state special revenue fund and must be appropriated to the~~
12 board the appropriate retirement system fund for the benefit of participants of retirement systems or plans
13 administered by the board.

14 (11) In discharging duties, the board, a member of the board, or an authorized representative of the
15 board may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and
16 records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers,
17 correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104
18 of the Montana Administrative Procedure Act.

19 (12) The board may by rule or otherwise delegate to the board's executive director or any other staff
20 member any of the powers or duties conferred by law upon the board except as otherwise provided by law and
21 except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection (11)
22 or the contested case procedure of the Montana Administrative Procedure Act.

23 (13) The board shall perform other duties and may exercise the powers concerning the defined
24 contribution plan for plan members as provided in chapter 3, part 21, of this title."
25

26 **Section 5.** Section 19-2-506, MCA, is amended to read:

27 **"19-2-506. Payment of contributions by employers -- accompanying reports -- penalty.** (1) The
28 board shall prescribe by rule the procedure for payment of retirement contributions for the retirement systems
29 administered by the board. Each employer shall pick up the employee contributions and remit the employer and
30 employee contributions required by the member's retirement system. Payments must be considered delinquent

1 until both the required contributions and the valid payroll report are received by the board.

2 (2) The board may collect payments delinquent under subsection (1) with an interest penalty at the rate
3 of 9% a year or \$10 a day, whichever is greater. The board may, in its discretion, waive the penalty. The
4 collection may be made by either:

5 (a) an action in a court of competent jurisdiction against the employer; or

6 (b) deductions, at the request of the board, from any other money payable to the employer by any
7 agency or fund of the state.

8 (3) The board shall prescribe by rule the procedure for submitting employer reports. The reports must
9 include data about member and nonmember employees who work for the employer. The data required must
10 include items such as compensation paid, hourly rates, changes in pay status, current home addresses, and any
11 other data concerning employees that the board needs to administer the specific retirement system or plan. The
12 board shall establish the method of reporting, the reporting period, and the frequency of reports to meet the
13 demands of the relevant retirement system or plan. The board may establish by rule the penalty fees for
14 noncompliance in reporting any of the required information and the procedure for collection of the fees.

15 (4) Each employer shall furnish additional information concerning members that the board may request
16 in connection with claims by members for benefits or service under a retirement system.

17 (5) The board, from time to time, may send materials to an employer for redistribution to employees.
18 To facilitate distribution, each employer shall provide the board with a point of contact responsible for distributing
19 the materials."
20

21 **Section 6.** Section 19-2-603, MCA, is amended to read:

22 **"19-2-603. Reinstatement after withdrawal of contributions.** (1) Except as otherwise provided in
23 chapter 3, part 21, of this title and this section, a person who again becomes a member of a defined benefit plan
24 subsequent to the refund of the person's accumulated contributions after a termination of previous membership
25 is considered a new member without ~~credit for any~~ previous membership service or service credit. The person
26 may reinstate that membership service or service credit by redepositing the sum of the accumulated
27 contributions that were refunded to the person at the last termination of the person's membership plus the
28 interest that would have been credited to the person's accumulated contributions had the refund not taken place.
29 If the person makes this redeposit, the membership service and service credits ~~credits~~ credit previously canceled must
30 be reinstated.

(2) Regardless of whether this redeposit is made, the documents held by the retirement system as executed by the member prior to termination of membership must be held by the system for the same purposes as prior to termination, and beneficiaries nominated in the documents continue unchanged until changed as provided in ~~this section~~ 19-2-801."

Section 7. Section 19-2-702, MCA, is amended to read:

"19-2-702. Membership service. A member who is not retired must receive membership service for all periods of service, regardless of hours worked or compensation received during that service. The membership service must be used to determine:

(1) whether a member is vested;

(2) when the member is eligible for ~~early or normal~~ service retirement, early retirement, or disability retirement; or

(3) the eligibility of beneficiaries for survivorship benefits."

Section 8. Section 19-2-704, MCA, is amended to read:

"19-2-704. Purchasing service credits allowed -- payroll deduction. (1) Subject to the rules promulgated by the board, an eligible member may elect to contribute amounts in addition to the mandatory employee contributions required by the member's retirement system to purchase service credits as provided by the statutes governing the retirement system.

(2) Subject to any statutory provision establishing stricter limitations, only active or vested inactive members are eligible to purchase or transfer service ~~credits~~ credit, membership service, or contributions.

(3) A member who wishes to redeposit amounts withdrawn under 19-2-602 or who is eligible to purchase service credit as provided by the statutes governing the retirement system to which the member belongs may elect to make a lump-sum payment, installment payments, or a combination of a lump-sum payment and installment payments.

(4) Installment payments must be paid directly to the board, unless the member elects to make payments by irrevocable payroll deduction. The minimum installment period for payments made directly to the board is 3 months, and the maximum installment period is 5 years.

(5) To elect installment payments by irrevocable payroll deduction, the member shall file with the board and the member's employer an irrevocable, written application and authorization for payroll deductions. The

1 application and authorization:

2 (a) must be signed by the member and the member's employer;

3 (b) must specify the dollar amount of each deduction and the number of deductions to be made, subject
4 to any maximum amounts or duration established by state or federal law;

5 (c) must provide that the deductions are to be made over a period of time of no less than 3 months and
6 no more than 5 years in duration;

7 (d) may not give the member the option of receiving the deduction amounts directly instead of having
8 them paid by the employer to the board; and

9 (e) must specify that the contributions being picked up, although designated as employee contributions,
10 are being paid by the employer directly to the board in lieu of contributions paid directly by the employee.

11 (6) If the board notifies the employer that a proper written application and authorization has been filed
12 with the board, the employer shall initiate the payroll deduction as follows:

13 (a) An employer shall pick up the member's elective contributions made pursuant to a payroll deduction
14 authorization. The contributions picked up by the employer must be paid from the same source as is used to pay
15 compensation to the member and must be included as part of the member's earned compensation before the
16 deduction is made.

17 (b) Employee contributions, even though designated as employee contributions for state law purposes,
18 are paid by the member's employer in lieu of contributions paid directly by the member to the board.

19 (c) The member may not choose to receive the contributed amounts directly instead of having them paid
20 by the employer to the board.

21 (d) The effective date of the employer pickup and payment pursuant to this section is the date on which
22 the employee contribution is first deducted from the employee's compensation. However, the effective date may
23 not be prior to the date that the member properly completes the written application and authorization for payroll
24 deductions and files it with the board. The pickup may not apply to any contributions made before the effective
25 date or to any contributions related to compensation earned for services rendered before the effective date.

26 (e) Installment payments initiated by contract prior to July 1, 1999, may be paid by payroll deduction
27 only if the member files a written application and authorization for payroll deductions pursuant to this section.
28 If the member does not file a written application and authorization for payroll deductions pursuant to this section,
29 the installment contract payments agreed to by the member must be paid by the member directly to the board.

30 (f) A member may file more than one irrevocable payroll deduction agreement and authorization as long

1 as a subsequent deduction authorization does not amend a previous irrevocable authorization. A member may
2 not prepay an amount under an irrevocable payroll deduction, except when a member with a AN EXISTING contract
3 to purchase existing service credit elects to transfer to the defined contribution retirement plan pursuant to
4 19-3-2111(7) or to the optional retirement program pursuant to 19-3-2112(2)(j).

5 (7) If a member terminates service or dies before completing all payments required by a payroll
6 deduction authorization filed pursuant to this section, the deduction authorization expires and the board shall
7 prorate the service credit based on the amount paid as of the date of termination unless further payment is made
8 as provided in this subsection. In the case of a termination, the member may make a lump-sum payment for up
9 to the balance of the service credit remaining to be purchased, subject to the limitations of section 415 of the
10 Internal Revenue Code. In the case of death of the member, the payment may be made from the member's
11 estate subject to the limitations of section 415 of the Internal Revenue Code."

12
13 **Section 9.** Section 19-2-706, MCA, is amended to read:

14 **"19-2-706. Additional service credit for member involuntarily terminated from membership**
15 **service.** (1) An employee of the state or university system is entitled to the involuntary termination provision
16 provided in subsection (3) if:

17 (a) the employee is a member of the public employees', game wardens' and peace officers', sheriffs',
18 or highway patrol officers' retirement system;

19 (b) the employee's active service is involuntarily terminated because of elimination of the employee's
20 position as a result of privatization, reorganization of an agency, closure of or a reduction in force at an agency,
21 or other actions by the legislature or, in the case of a legislator, because of term limits terminating the service
22 of the legislator in either one of the houses of the legislature;

23 (c) the employee is eligible for ~~a normal~~ service retirement or early retirement under the applicable
24 provisions of the retirement system to which the member belongs; and

25 (d) the employee waives termination benefits for which the employee would otherwise be eligible under
26 the State Employee Protection Act.

27 (2) The cost of each year of service credit purchased under this section is the total actuarial cost of
28 purchasing the service credit based on the most recent actuarial valuation of the retirement system.

29 (3) The employer of an eligible member under subsection (1) shall pay a portion of the total cost of
30 purchasing up to 3 years of additional service credit that the member was qualified to purchase under 19-3-513,

19-6-804, 19-7-804, or 19-8-904. The employer-paid portion ~~applied toward the service purchase~~ must be calculated using the formula $A \times B \times C$ when:

(a) A is equal to a maximum of 3 additional years of service credit that the member is eligible to purchase;

(b) B is equal to the sum of the employer and employee contribution rates in the member's retirement system; and

(c) C is equal to the member's gross compensation paid during the immediate preceding 12 months of membership service. The employer may not be charged more than the total actuarial cost of the service credit purchased by the terminated employee.

(4) The member shall pay the difference, if any, between the full actuarial cost of the service credit to be purchased and the ~~amount contributed by~~ contribution required from the employer under subsection (3). A member may elect to purchase less than the full amount of service for which the member is eligible under this section, but the election may not reduce the amount of the employer's contribution as calculated under subsection (3).

(5) The board may allow an employer to pay the contributions required under subsection (3) in installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403.

(6) (a) A member who has received additional service credit under this section and who returns to employment for the same jurisdiction for 960 or more hours in a calendar year in a position covered by the public employees' retirement system or for 600 or more hours in a calendar year in a position covered under any other retirement system forfeits the additional service credit. The employer's contribution to purchase that member's additional service credit, minus any retirement benefits already paid, must be credited to the employer.

(b) As used in this subsection (6)(a), the ~~same jurisdiction~~ term "same jurisdiction" means all agencies of the state, including the university system."

Section 10. Section 19-2-708, MCA, is amended to read:

"19-2-708. Rollover of contributions. (1) A member who elects to and is eligible to purchase service credit from another retirement system or plan into a retirement system provided for in 19-2-302 may, prior to retirement, file a written application with the board to roll over, in accordance with the requirements of this part, to the retirement system to which the member belongs all or a portion of the member's account with the other eligible retirement system or plan. The total amount of the rollover to the retirement system may not exceed the

1 amount of service credit that the member is allowed to purchase as a member of that system. The rollover must
2 be completed prior to the member's retirement.

3 (2) The board shall accept a direct rollover of eligible distributions from another eligible retirement plan
4 as provided in subsection (1) only to the extent permitted by section 401(a)(31) of the Internal Revenue Code."
5

6 **Section 11.** Section 19-2-709, MCA, is amended to read:

7 **"19-2-709. Transfer of service and contributions from other Montana public employee retirement**
8 **systems.** (1) A member eligible to transfer service credit, pursuant to ~~19-3-509~~, [section 1] and 19-3-511,
9 ~~19-6-802, 19-7-802, 19-8-902, 19-9-405, or 19-13-404~~, into the system to which the member belongs shall
10 complete the transfer prior to the member's retirement.

11 (2) The accumulated contributions to be transferred by the member may include both taxed
12 contributions and tax-deferred contributions and interest. However, if less than all of the member's accumulated
13 contributions on deposit in a pension trust fund are being transferred, the transfer of taxed and tax-deferred
14 amounts must be made on a proportionate basis, with the remainder refunded to the member. The transferring
15 agency shall at the time of the transfer identify the taxed and tax-deferred amounts being transferred to the
16 board."
17

18 **Section 12.** Section 19-2-801, MCA, is amended to read:

19 **"19-2-801. Designation of beneficiary.** (1) In the absence of any statutory beneficiaries, designated
20 beneficiaries are the natural persons, charitable organizations, estate of the payment recipient, or trusts for the
21 benefit of natural living persons that the member or payment recipient designates on the membership card or
22 other form provided by the board. Unless otherwise provided by statute, a member or payment recipient may
23 revoke the designation and name different designated beneficiaries by filing with the board a new membership
24 card or other form provided by the board. The most recent beneficiary designation filed with the board is effective
25 for all purposes.

26 (2) If a statutory or designated beneficiary predeceases the member or payment recipient, the
27 predeceased beneficiary's share must be paid to the remaining statutory or designated beneficiaries in amounts
28 proportional to each remaining statutory or designated beneficiary's original share.

29 ~~(2)(3)~~ A statutory or designated beneficiary who renounces an interest in the payment rights of a
30 member or payment recipient will be considered, with respect to that interest, as having predeceased the

1 member or payment recipient."

2
3 **Section 13.** Section 19-2-802, MCA, is amended to read:

4 **"19-2-802. Effect of no designation or no surviving designated beneficiary.** (1) If a statutory or
5 designated beneficiary does not survive the member or payment recipient, the estate of the member or payment
6 recipient is entitled to any accrued lump-sum payment or accrued retirement benefit not received prior to the
7 member's or payment recipient's death. If the estate, as either a designated beneficiary or as a beneficiary by
8 default as provided in this subsection, would not be probated but for the amount due to the estate from the
9 retirement system, all of the amount due to the estate must be paid directly, without probate, to the surviving next
10 of kin of the deceased or the guardians of the survivor's estate, share and share alike.

11 (2) Payment must be made in the same order in which the following groups are listed:

- 12 (a) husband or wife;
13 (b) children;
14 (c) father and mother;
15 (d) grandchildren;
16 (e) brothers and sisters; or
17 (f) nieces and nephews.

18 (3) A payment may not be made to a person included in any of the groups listed in subsection (2) if at
19 the date of payment there is a living person in any of the groups preceding the group of which the person is a
20 member, as listed. Payment must be made upon receipt from the person of an affidavit, upon a form supplied
21 by the board, that there are no living individuals in the groups preceding the group of which the person is a
22 member and that the estate of the deceased will not be probated.

23 (4) The payment must be in full and complete discharge and acquittance of the board and system on
24 account of the member's or payment recipient's death."

25
26 **Section 14.** Section 19-2-907, MCA, is amended to read:

27 **"19-2-907. Alternate payees -- family law orders -- rulemaking.** (1) A participant in a retirement
28 system may have the participant's rights modified or recognized by a family law order.

29 (2) For purposes of this section:

30 (a) "family law order" means a judgment, decree, or order of a court of competent jurisdiction under Title

40 concerning child support, parental support, spousal maintenance, or marital property rights that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an alternate payee in compliance with this section; and

(b) "participant" means an identified person who is a member or an actual or potential beneficiary, survivor, or contingent annuitant of a retirement system or plan designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17.

(3) A family law order must identify a participant and an alternate payee by full name, current address, date of birth, and social security number. An alternate payee's rights and interests granted in compliance with this section are not subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights or interests may be modified only by a family law order amending the family law order that established the right or interest.

(4) A family law order may not require:

(a) a type or form of benefit, option, or payment not available to the affected participant under the appropriate retirement system or plan; or

(b) an amount or duration of payment greater than that available to a participant under the appropriate retirement system or plan.

(5) With respect to a defined benefit plan, a family law order may provide for payment to an alternate payee only as follows:

(a) ~~Service retirement~~ Retirement benefit payments or refunds may be apportioned by directing payment of either a percentage of the amount payable or a fixed amount of no more than the amount payable to the participant. Payments to an alternate payee may be limited to a specific amount each month if the number of payments is specified.

(b) The maximum amount of disability or survivorship benefits that may be apportioned to alternate payees is the monthly benefit amount that would have been payable on the date of termination of service if the member had retired without disability or death. Conversion of a disability retirement to a service retirement pursuant to 19-2-406(4), 19-3-1015(2), 19-6-612(2), or 19-8-712(2) does not increase the maximum monthly amount that may be apportioned to an alternate payee.

(c) Retirement benefit adjustments for which a participant is eligible after retirement may be apportioned as a percentage only if existing benefit payments are apportioned as a percentage. The adjustments must be apportioned as a percentage in the same ratio as existing benefit payments.

(d) The participant may be required to choose a specified form of benefit payment or designate a beneficiary or contingent annuitant if the retirement system or plan allows for that option.

(6) With respect to a defined contribution plan, a family law order may provide for payment to an alternate payee only as follows:

(a) The vested account of the participant may be apportioned by directing payment of either a percentage or a fixed amount. The total amount apportioned may not exceed the amount in the participant's vested account. The alternate payee may receive the payment only as a direct payment, rollover, or transfer. A new account may not be established for an alternate payee.

(b) If the participant is receiving periodic payments ~~from~~ or an annuity provided under the plan, those payments may be apportioned as a percentage of the amount payable to the participant. Payments to the alternate payee may be limited to a specific amount each month if the number of payments is specified. Payments may not total more than the amount payable to the payee.

(7) The duration of monthly payments apportioned from a defined benefit or defined contribution plan participant to an alternate payee may not exceed the lifetime of the appropriate participant. The duration of the monthly payments may be further limited only to a specified maximum time, the life of the alternate payee, or the life of another specified participant. The alternate payee's rights and interests survive the alternate payee's death and may be transferred by inheritance.

(8) The board may assess a participant or an alternate payee for all costs of reviewing and administering a family law order, including reasonable attorney fees. The board may adopt rules to implement this section.

(9) Each family law order establishing a final obligation concerning payments by the retirement system must contain a statement that the order is subject to review and approval by the board.

(10) The board shall adopt rules to provide for the administration of family law orders."

Section 15. Section 19-2-908, MCA, is amended to read:

"19-2-908. Time of commencement of benefit -- rulemaking. (1) (a) The board shall grant a benefit to any member, or the member's statutory or designated beneficiary, who has fulfilled all eligibility requirements, terminated ~~covered~~ service, and filed the appropriate written application with the board. However, the board may, on its own accord and without a written application, begin benefit payments to a member or beneficiary in order to comply with section 401(a)(9) of the Internal Revenue Code.

1 (b) A member may apply for retirement benefits before terminating ~~covered~~ service, but commencement
2 of the benefits must be as provided in this section.

3 (2) (a) Except as provided in subsection (2)(b), the ~~service~~ retirement benefit may commence on the
4 first day of the month following the eligible member's last day of membership service or, if requested by the
5 inactive member in writing, on the first day of a later month following filing of the written application.

6 (b) If an elected official's term of office expires before the 15th day of the month, the official may elect
7 that ~~service~~ retirement benefits from a defined benefit plan commence on the first day of the month following
8 the official's last full month in office. An official electing this option shall file a written application with the board.
9 An official electing this option may not earn membership service, service credit, or compensation for purposes
10 of calculating highest average compensation or final average compensation, as defined under the provisions
11 of the appropriate retirement system, in the partial month ending the official's term, and compensation earned
12 in that partial month is not subject to employer or employee contributions.

13 (3) The disability retirement benefit payable to a member must commence on the day following the
14 member's termination from service.

15 (4) Monthly survivorship benefits from a defined benefit plan must commence on the day following the
16 death of the member.

17 (5) Estimated and finalized benefit payments must be issued as provided in rules adopted by the board.

18 (6) With respect to the defined contribution plan, the board shall adopt rules regarding the
19 commencement of benefits that are consistent with applicable provisions of the Internal Revenue Code and its
20 implementing regulations."

21
22 **Section 16.** Section 19-2-909, MCA, is amended to read:

23 **"19-2-909. Execution or withholding for support obligation -- rulemaking.** (1) Benefits in the
24 retirement systems or plans provided for in chapters 3, 5 through 9, 13, and 17 are subject to execution and
25 income withholding for the payment of a participant's support obligation.

26 (2) For purposes of this section, the following definitions apply:

27 (a) "Execution" means a warrant for distraint issued or a writ of execution obtained by the department
28 of public health and human services when providing support enforcement services under Title IV-D of the Social
29 Security Act.

30 (b) "Income withholding" means an income-withholding order issued under the provisions of Title 40,

chapter 5, part 3 or 4, or an income-withholding order issued in another state as provided in 40-5-157.

(c) "Participant" means an identified person who is a member or an actual or potential beneficiary, survivor, or contingent annuitant of a retirement system or plan designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17.

(d) "Support obligation" has the meaning provided in 40-5-403 for a support order.

(3) The execution or income-withholding order may not require:

(a) a type or form of benefit, option, or payment not available to the affected participant under the appropriate retirement system or plan; or

(b) an amount or duration of payment greater than that available to a participant under the appropriate retirement system or plan.

(4) An execution or income-withholding order applied to a defined benefit retirement plan may provide for payment only as follows:

(a) ~~Service retirement~~ Retirement benefit payments or refunds may be apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of no more than the amount payable to the participant.

(b) The maximum amount of disability or survivorship benefits that may be apportioned and paid under this section is the monthly benefit amount that would have been payable on the date of termination of service if the member had retired without disability or death.

(c) Retirement benefit adjustments for which a participant is eligible after retirement may be apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the same ratio as existing benefit payments.

(5) With respect to a defined contribution plan, an execution or income-withholding order may provide for payment to an alternate payee only as follows:

(a) The vested account of the participant may be apportioned by directing payment of either a percentage or a fixed amount. The total amount apportioned may not exceed the amount in the participant's vested account. The alternate payee may receive the payment only as a direct payment, rollover, or transfer. A new account may not be established for an alternate payee.

(b) If the participant is receiving periodic payments ~~from~~ or an annuity provided under the plan, those payments may be apportioned as a percentage of the amount payable to the participant. Payments to the alternate payee may be limited to a specific amount each month if the number of payments is specified.

1 Payments may not total more than the amount payable to the payee.

2 (6) The duration of monthly or other periodic payments apportioned from a defined benefit or defined
3 contribution plan participant to an alternate payee may not exceed the lifetime of the appropriate participant. The
4 duration of the monthly payments may be further limited only to a specified maximum time, the life of the
5 alternate payee, or the life of another specified participant. The alternate payee's rights and interests survive the
6 alternate payee's death and may be transferred by inheritance.

7 (7) The board shall adopt rules to provide for the administration of execution or income-withholding
8 orders."
9

10 **Section 17.** Section 19-2-1010, MCA, is amended to read:

11 **"19-2-1010. Retaining qualified plan status -- content of plan document -- board rulemaking**
12 **authority.** (1) The board shall administer the plan in the manner required to satisfy the applicable qualification
13 requirements for a qualified governmental plan, as provided in the Internal Revenue Code. If a statutory
14 provision affecting a retirement plan administered by the board conflicts with a qualification requirement in
15 section 401 of the Internal Revenue Code or the retirement plan's status as a governmental plan under section
16 414(d) of the Internal Revenue Code and with consequent federal regulations, the provision is either ineffective
17 or must be interpreted to conform with the federal qualification requirements and allow the plan to retain its
18 qualified status.

19 (2) For the purposes of section 401(a) of the Internal Revenue Code, the plan document for each
20 retirement system is composed of the applicable provisions of the Montana constitution, this chapter, the
21 applicable chapter in Title 19 governing the system, and applicable rules, policies, and plan documents adopted
22 by the board.

23 (3) The board may adopt rules to implement this section."
24

25 **Section 18.** Section 19-3-108, MCA, is amended to read:

26 **"19-3-108. Definitions.** Unless the context requires otherwise, as used in this chapter, the following
27 definitions apply:

28 (1) (a) "Compensation" means remuneration paid out of funds controlled by an employer in payment
29 for the member's services, or for time during which the member is excused from work because of a holiday or
30 because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence, before

1 any pretax deductions allowed by state or federal law are made.

2 (b) Compensation does not include:

3 (i) the payments or contributions made in lieu of wages for an individual subject to 19-3-403(4)(a);

4 (ii) in-kind goods provided by the employer, such as uniforms, housing, transportation, or meals;

5 (iii) in-kind services, such as the retraining allowance paid pursuant to 2-18-622, or employment-related
6 services;

7 (iv) contributions to group insurance, such as that provided under 2-18-701 through 2-18-704; and

8 (v) lump-sum payments for compensatory leave, sick leave, or annual leave paid without termination
9 of employment.

10 (2) "Contracting employer" means any political subdivision or governmental entity that has contracted
11 to come into the system under this chapter.

12 (3) "Defined benefit plan" means the plan within the public employees' retirement system established
13 in 19-3-103 that is not the defined contribution plan.

14 (4) "Employer" means the state of Montana, its university system or any of the colleges, schools,
15 components, or units of the university system for the purposes of this chapter, or any contracting employer,
16 except that a nonprofit mental health corporation established pursuant to 53-21-204 may not be an employer
17 with regard to employees hired after June 30, 1999.

18 (5) "Employer contributions" means payments to a pension trust fund pursuant to 19-3-316 from
19 appropriations of the state of Montana and from contracting employers.

20 (6) "Highest average compensation" means a member's highest average monthly compensation during
21 any 36 consecutive months of membership service or, with respect to a member who has attained 65 years of
22 age but has not served at least 36 months, total compensation earned divided by the number of months the
23 member has served. Lump-sum payments for severance pay, including payment for compensatory leave, sick
24 leave, and annual leave, paid to the member upon termination of employment may be used in the calculation
25 of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the regular
26 compensation for a month or months included in the calculation of the highest average compensation. A
27 lump-sum payment may not be added to a single month's compensation.

28 (7) "System" or "retirement system" means the public employees' retirement system established in
29 19-3-103."
30

1 **Section 19.** Section 19-3-401, MCA, is amended to read:

2 **"19-3-401. Membership -- inactive vested members -- inactive nonvested members.** (1) Except
3 as otherwise provided in this chapter, all employees shall become members of the defined benefit plan on the
4 first day of service. Each employer shall file with the board information affecting their employees' status as
5 members as the board may require. An employee may become a member of the defined contribution plan only
6 as provided in Title 19, chapter 3, part 21.

7 (2) A member of the defined benefit plan with at least 5 years of membership service who terminates
8 service and does not take a refund of the member's accumulated contributions is an inactive vested member
9 and retains the right to purchase service credit and to receive a service retirement benefit subject to the
10 provisions of this chapter.

11 (3) A member of the defined benefit plan with less than 5 years of membership service who terminates
12 service and leaves the member's accumulated contributions in the pension trust fund is an inactive nonvested
13 member and is not eligible for any benefits from the retirement plan. An inactive nonvested member is eligible
14 only for a refund of the member's accumulated contributions.

15 (4) A member of either the defined benefit plan or the defined contribution plan who returns to service
16 within 30 days of termination of service is an active member. Except as otherwise provided in this chapter, a
17 member of either the defined benefit plan or the defined contribution plan who terminates one service but
18 remains in another service or subsequently reenters service is an active member.

19 (5) Time during which an employee of a school district is absent from service during official vacation
20 is counted as membership service in determining eligibility for ~~membership under this chapter~~ retirement
21 benefits."

22
23 **Section 20.** Section 19-3-403, MCA, is amended to read:

24 **"19-3-403. Exclusions from membership.** The following persons may not become members of the
25 retirement system:

26 (1) inmates of state institutions;

27 (2) persons in state institutions principally for the purpose of training but who receive compensation;

28 (3) independent contractors;

29 (4) persons who are members of any other retirement or pension system supported wholly or in part
30 by funds of the United States government, any state government, or political subdivision of the state and who

1 are receiving credit in the other system for ~~service~~ employment. It is the purpose of this subsection to prevent
2 a person from receiving credit for the same ~~service~~ employment in two retirement systems supported wholly or
3 in part by public funds, except when the service qualifies; ~~and~~ is applied for; and the service credit is purchased
4 pursuant to 19-3-503. A member of the retirement system who, because of employment by the state, is required
5 to become a member of any other system described in this subsection is considered, solely for the purposes of
6 making regular contributions, as permanently separated from service. Exclusion under this subsection is subject
7 to the following exceptions:

8 (a) When an employer has entered into a collective bargaining agreement that includes provisions for
9 payments or contributions by the employer in lieu of wages to a retirement or pension plan qualified by the
10 internal revenue service for its employees, the employees remain eligible, if otherwise qualified, for membership
11 in the retirement system.

12 (b) For the purpose of this subsection (4), persons receiving pensions, retirement benefits, or other
13 payments from any source on account of employment other than as an employee are not considered, because
14 of receipt, members of any other retirement or pension system.

15 (5) court commissioners, elected officials, or appointive members of any board or commission who
16 serve the state or any contracting employer intermittently and who are paid on a per diem basis;

17 (6) full-time students employed at and attending the same public elementary school, high school,
18 community college, or unit of the state university system, except that a person excluded from membership as
19 a student of a public community college or a unit of the state university system who later becomes an active
20 member by otherwise becoming an employee may affirmatively exercise the option of purchasing the service
21 credit excluded by this subsection by applying to the board in writing after becoming an active member and
22 become eligible to receive ~~credited~~ service credit for the excluded service under the provisions of 19-3-505."
23

24 **Section 21.** Section 19-3-412, MCA, is amended to read:

25 **"19-3-412. Optional membership.** (1) The following employees in covered employment may become
26 members of the retirement system at their option by filing an irrevocable, written application with the board within
27 180 days of commencement of their employment:

28 (a) elected officials of the state or local governments who are paid on a salary or wage basis rather than
29 on a per diem or other reimbursement basis;

30 (b) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered

1 employment with all employers under this chapter in any fiscal year;

2 (c) employees directly appointed by the governor;

3 (d) employees working 6 months or less for the legislative branch to perform work related to the
4 legislative session;

5 (e) the chief administrative officer of any city or county;

6 (f) employees of county hospitals or rest homes.

7 (2) (a) Except as provided in subsection (2)(b), employees and officials described in subsections (1)(a)
8 through (1)(f) who are employees or officials but not members on July 1, 1999, have until December 1, 1999,
9 to file an irrevocable, written application with the board.

10 (b) A legislator may also become a member as of the date prior to December 30, 2000, that the
11 legislator filed an irrevocable written application with the board to become a member and paid the employee
12 share of contributions determined by the board to be required to purchase the legislator's prior service credit.
13 However, the legislator shall purchase at least 5 years of service credit or, if the legislator has less than 5 years
14 of membership service, service credit equal to all of the legislator's membership service. The legislative branch
15 is responsible for paying the amount determined by the board to be the employer's share of contributions
16 required to purchase a legislator's service credit under this subsection (2)(b).

17 (3) If an employee declines optional membership, the employee shall sign a statement waiving
18 membership and file it with the employer. The employer shall file the statement with the board and retain a copy
19 of the statement. An employee who declines optional membership may not receive membership ~~credit~~ service
20 or service credit for the employment for which membership was declined.

21 (4) An employee who declined optional membership but later becomes a member may purchase service
22 credit for the period of time beginning with the date of employment in which membership was declined to the
23 commencement of membership. Purchase of service credit pursuant to this subsection must comply with
24 19-3-505.

25 (5) Membership in the retirement system is not optional for an employee who is already a member.
26 Upon employment in a position for which membership is optional:

27 (a) a member who was an active member before the employment remains an active member;

28 (b) a member who was an inactive member before the employment becomes an active member; and

29 (c) a member who was a retired member before the employment is subject to part 11 of this chapter.

30 (6) An employee who declines membership while employed in a position for which membership is

optional may not later become a member while still employed in that position. If, after a break in service of 30 days or more, an employee who was a member in an optional membership position is reemployed in the same position or is employed in a different position for which membership is optional, the employee shall again choose or decline membership. However, if the break in service is less than 30 days, an employee who declined membership is bound by the employee's original decision to decline membership.

(7) An employee accepting a position that requires membership shall become a member even if the employee previously declined membership and did not have a 30-day break in service.

(8) If an employee or official fails to file with the board an irrevocable, written application within the time allowed in this section, the employee or official waives membership."

Section 22. Section 19-3-503, MCA, is amended to read:

"19-3-503. Application to purchase military service. (1) (a) Except as provided in subsection (2) ~~(1)(b)~~ and subject to 19-3-514, a member with at least 10 years of service credit may, at any time prior to retirement, file a written application with the board to purchase service credit AND MEMBERSHIP SERVICE for up to 5 years of the member's active service in the armed forces of the United States, including the first special service force or the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945.

~~(b) To purchase this service, the member shall pay the actuarial cost of the member's military service, based on the system's most recent actuarial valuation.~~

~~(2)(b)~~ A member is not eligible to purchase active military service credit AND MEMBERSHIP SERVICE under ~~this section~~ subsection (1)(a) if the member:

~~(a)(i)~~ has retired from active duty in the armed forces of the United States, including the first special service force or the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945, with a military service retirement benefit based on that military service;

~~(b)(ii)~~ is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

~~(c)(iii)~~ is eligible to receive credit for that service in any other retirement system or plan.

(2) (a) Except as provided in subsection (2)(b) and subject to 19-3-514, a member with at least 10 years of service credit may, at any time prior to retirement, file a written application with the board to purchase service credit AND MEMBERSHIP SERVICE for up to 5 years of the member's reserve military service in the armed forces of the United States.

1 (b) A member is not eligible to purchase reserve military service credit AND MEMBERSHIP SERVICE under
2 subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

3 (3) To purchase service credit AND MEMBERSHIP SERVICE under this section, the member shall pay the
4 actuarial cost of the member's active or reserve military service credit based on the system's most recent
5 actuarial valuation."

6
7 **Section 23.** Section 19-3-504, MCA, is amended to read:

8 **"19-3-504. Absence due to illness or injury.** (1) Time, not to exceed 5 years, during which a member
9 is absent from service because of injury or illness is considered membership service if, within 1 year after the
10 end of the absence, the injury or illness is determined to have arisen out of and in the course of the member's
11 employment. However, the member may not earn service credits for this period unless the member complies
12 with subsections (2) and (3), in which case the absence is considered as time spent in service for both service
13 ~~credits~~ credit and membership service.

14 (2) (a) A member absent because of an employment-related injury entitling the member to workers'
15 compensation payments may, upon the member's return to service, contribute to the retirement system an
16 amount equal to the contributions that would have been made by the member to the system on the basis of the
17 member's compensation at the commencement of the member's absence plus regular interest accruing from
18 1 year from the date after the member returns to ~~covered~~ service to the date the member contributes for the
19 period of absence.

20 (b) Whenever a member elects to contribute under subsection (2)(a), the employer shall contribute
21 employer contributions for the period of absence based on the salary as calculated in subsection (2)(a) and may
22 pay interest on the employer's contribution calculated in the same manner as interest on the employee's
23 contribution under subsection (2)(a). An employer electing to make an interest payment shall do so for all
24 employees similarly situated. If the employer elects not to pay the interest costs, this amount must be paid by
25 the employee.

26 (3) At some time after returning to ~~covered~~ service, a member shall file with the board a written notice
27 of the member's intent to pay the contributions under subsection (2).

28 (4) A member loses the right to contribute for an absence under this section if all of the member's
29 accumulated contributions are refunded pursuant to 19-2-602 or for the period of time during which retirement
30 benefits are received if the member retires during the absence."

1

2 **Section 24.** Section 19-3-505, MCA, is amended to read:

3 **"19-3-505. Purchase of previous employment with employer.** (1) Subject to the provisions of this
4 section, a member who has employment for which optional membership was declined or employment with an
5 employer prior to the employer's contract coverage may file a written application with the board to purchase all
6 or a portion of the employment for service credit. The application must include salary information certified by the
7 member's employer or former employer.

8 (2) (a) A purchase of service credit under this section is subject to the board's approval.

9 (b) If the board approves the request, the member shall pay the amount that the member and the
10 member's employer would have contributed during the period of employment as if the employment had been
11 covered by the retirement system and shall pay the regular interest that would have accumulated on the amount
12 to the time of payment. However, the employer may pay the employer's portion, including accrued regular
13 interest as provided in subsection (2)(c).

14 (c) The employer shall establish a policy as to the payment of retroactive employer contributions and
15 apply this policy indiscriminately for all employees and former employees. All employee appeals of discrimination
16 are subject to the determination of the board. All successful appeals obligate the employer to pay the employer
17 and employee contributions with accrued interest for that employee filing the appeal with the board. Each appeal
18 must be heard on its individual merits and may not bind the employer to pay all retroactive payments for all
19 former and present employees."

20

21 **Section 25.** Section 19-3-510, MCA, is amended to read:

22 **"19-3-510. Employment in United States government.** (1) A member who is assigned to an agency
23 of the United States government under Title IV, the Intergovernmental Personnel Act of 1970, may purchase the
24 federal employment as service credit in the retirement system under subsection (2) if:

25 (a) the member has accrued 5 years or more of membership service in the retirement system; and

26 (b) the member returns to full-time service with the former state or local government employer for at
27 least 1 year after completing employment in the United States government.

28 (2) A member of the retirement system who is assigned to an agency of the United States government
29 has the option to:

30 (a) continue the member's payments into the pension trust fund; or

(b) purchase service credit for the period of federal employment under this section within 2 years after return to service under the retirement system.

(3) Salary earned while on assignment to an agency of the United States government must be considered compensation for the purposes of the retirement system and may be included in the determination of highest average compensation, provided that the highest average compensation does not exceed 100% of the member's highest annual compensation earned as a state or local government employee."

Section 26. Section 19-3-511, MCA, is amended to read:

"19-3-511. Transfer and purchase of service credits and contributions from teachers' retirement system. (1) Except as provided in subsection (3)(b), an active member may, at any time before retirement, file a written application with the board to purchase in the public employees' retirement system the member's service in the teachers' retirement system to the extent that the member has either received or is eligible to receive a refund for the service.

(2) The cost of purchasing service credit under this section is the sum of subsections (2)(a) and (2)(b) as follows:

(a) The teachers' retirement system shall transfer an amount equal to 72% of the amount payable by the member.

(b) The member shall pay either directly or by transferring contributions on account with the teachers' retirement system an amount equal to the member's accumulated contributions at the time that active membership was terminated with the teachers' retirement system, plus accrued interest. Interest must be calculated from the date of termination until payment is received by the public employees' retirement system, based on the interest tables in use by the teachers' retirement system.

(3) (a) The amount of service credit granted in subsection (1) must be on a month-by-month basis.

(b) Service credit transferred from the teachers' retirement system is subject to the provisions and limitations of 19-3-514, except as provided in subsection (3)(c).

(c) Active service transferred from the teachers' retirement system or refunded service from the teachers' retirement system that is eligible to be purchased under this section is not subject to service credit limitations.

(4) Subject to the provisions of 19-2-403, the board is the sole authority in determining the amount of service credit that a member may purchase under this section and the amount paid to the retirement system

1 under subsection (2).

2 (5) If an active member who ~~also~~ has also service credit in the teachers' retirement system dies before
3 the member purchases this service credit in the public employees' retirement system and if the service ~~credits~~
4 credit from both systems, when combined, ~~entitle~~ entitles the member's designated beneficiary to a survivorship
5 benefit, the payment of the survivorship benefit is the liability of the public employees' retirement system. Before
6 payment of the survivorship benefit, the teachers' retirement board shall transfer to the public employees'
7 retirement system the contributions necessary to purchase this service credit in the public employees' retirement
8 system, as provided in subsection (2).

9 (6) If the board determines that a member was erroneously classified and reported to the teachers'
10 retirement system, the member's accumulated contributions and service credit, together with the employer
11 contributions plus interest, must be transferred to the public employees' retirement system. Employee and
12 employer contributions due as calculated under 19-3-315 and 19-3-316 are the liability of the employee and the
13 employing entity, respectively, where the error occurred. For the period of time that the employer contributions
14 are held by the teachers' retirement system, interest paid on employer contributions transferred under this
15 subsection must be calculated at the short-term investment pool rate earned by the board of investments in the
16 fiscal year preceding the transfer request."

17
18 **Section 27.** Section 19-3-512, MCA, is amended to read:

19 **"19-3-512. Purchase of service credit from other public retirement systems.** (1) Subject to
20 19-3-514, a member with at least 5 years of membership service in the public employees' retirement system may
21 purchase service credit for:

22 (a) public service employment covered under a public retirement system other than a system provided
23 for in Title 19 for which the member received a refund of the member's membership contribution; and

24 (b) public service employment that occurred before the public employer adopted a public retirement
25 system.

26 (2) A member may not purchase more than 5 years of service credit under this section. To purchase
27 this service credit, a member shall:

28 (a) at any time before retirement, file a written application with the board; and

29 (b) pay the actuarial cost of the service credit in the public employees' retirement system, as determined
30 by the board, based on the system's most recent actuarial valuation.

(3) Service credit purchased under this section may not be used to qualify a member to purchase military service under 19-3-503.

(4) Service credit purchased under this section may not be used in calculating a member's retirement benefit unless the member's last 5 years of service credit were earned under the public employees' retirement system. If, upon the member's retirement, the member's purchased service credit cannot be used in calculating the member's retirement benefit, the member must receive a refund of the amount paid to purchase the service credit, plus regular interest on that amount."

Section 28. Section 19-3-513, MCA, is amended to read:

"19-3-513. Application to purchase additional service. (1) Subject to 19-3-514, a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for each 5 years of membership service.

(2) To purchase this service credit under this section, a member shall pay the actuarial cost of the service credit, based on the system's most recent actuarial valuation.

(3) Service credit purchased under this section is not membership service and may not be used to qualify a member for service retirement."

Section 29. Section 19-3-514, MCA, is amended to read:

"19-3-514. Service purchase limit -- exception. (1) Except as provided in subsection (2), a member may not purchase more than a combined total of 5 years under 19-3-503, 19-3-511(3)(b), 19-3-512, and 19-3-513.

(2) A member who has purchased service credit under 19-3-503 or 19-3-512 on or before January 1, 1990, and who elects to purchase service credit under 19-3-513 must receive credit for the full months of service credit purchased on or before January 1, 1990."

Section 30. Section 19-3-521, MCA, is amended to read:

"19-3-521. Service credit for legislative members. A member of the legislature of Montana must be credited with receive membership service and service credit for that portion of each year for which the member pays regular contributions."

1 **Section 31.** Section 19-3-904, MCA, is amended to read:

2 **"19-3-904. Amount of service retirement benefit.** (1) Except as provided in subsection (2), the
3 monthly amount of service retirement benefit payable to a member following ~~service~~ retirement is the greater
4 of subsection (1)(a)~~1~~ OR (1)(b)~~1~~ OR (2) as follows:

5 (a) one fifty-sixth of the member's highest average compensation multiplied by the number of years of
6 the member's total service credit; or

7 (b) a monthly benefit that is the sum of:

8 (i) the actuarial equivalent of double the member's regular contributions and regular interest; plus

9 (ii) the actuarial equivalent of any additional contributions and regular interest.

10 (2) ~~The For a member with at least 25 years of membership service, the~~ monthly amount of service
11 retirement benefit ~~payable to a member who has at least 25 years of membership service is~~ must be equal to
12 one-fiftieth of the member's highest average compensation multiplied by the number of years of the member's
13 total service credit instead of the amount calculated under subsection (1)(a)."

14
15 **Section 32.** Section 19-3-906, MCA, is amended to read:

16 **"19-3-906. Early retirement benefit.** (1) The amount of retirement benefit payable to a member
17 following early retirement is the actuarial equivalent of the accrued portion of the service retirement benefit that
18 would have been payable to the member commencing at age 60 or upon completion of 30 years of membership
19 service ~~credit~~ pursuant to 19-3-904.

20 (2) The early retirement benefit must be determined as prescribed in 19-3-904, with the exception that
21 the benefit must be reduced as follows:

22 (a) by 1/2 of 1% multiplied by the number of months up to a maximum of 60 months by which the
23 retirement date precedes the date on which the member would have retired had the member attained 60 years
24 of age or had the member completed 30 years of membership service; and

25 (b) by 3/10 of 1% multiplied by the number of months in excess of the 60 months in subsection (2)(a)
26 but not to exceed 60 additional months that the retirement date precedes the date on which the member would
27 have retired had the member attained 60 years of age or had the member completed 30 years of membership
28 service.

29 (3) The actuarial reduction provided for in this section must be adjusted for any additional service credit
30 purchased under 19-3-513."

1
2 **Section 33.** Section 19-3-908, MCA, is amended to read:

3 **"19-3-908. Retirement incentive program -- window of eligibility.** (1) Except as provided in
4 subsection (4), a person who is an active member on February 1, 1993, and who voluntarily terminates service
5 or whose service is involuntarily terminated because of a reduction in force on or after June 25, 1993, but before
6 January 1, 1994, and who is eligible for a normal service retirement under 19-3-901 or early retirement under
7 19-3-902 is entitled to the retirement incentive provided in subsection (2).

8 (2) (a) The employer of an eligible member under subsection (1) shall pay the total cost of purchasing
9 up to 3 years of additional service credit that the member is qualified to purchase under 19-3-513.

10 (b) The department of revenue shall pay the cost of purchasing up to 3 years of additional service credit
11 for qualifying county assessors and deputy assessors eligible under subsection (1) whose employing county has
12 not elected for participation in the incentive program as provided in subsection (4).

13 (c) A member is entitled to a refund for that portion of previously purchased additional service that would
14 otherwise cause the member to be unqualified to receive all or part of the additional service credit provided in
15 this section.

16 (3) An active member who is involuntarily terminated because of a reduction in force on or after March
17 1, 1993, but before June 25, 1993, and who, if the member had not been terminated, would have been eligible
18 under subsection (1) for the retirement incentive is entitled to the retirement incentive under subsection (2) if the
19 member was, at the time of termination, eligible for ~~normal~~ service retirement under 19-3-901 or early retirement
20 under 19-3-902 and retires on or after June 25, 1993.

21 (4) Subject to subsection (2)(b), a contracting employer's participation in the incentive program
22 described in this section is optional. A contracting employer may elect to provide the incentive by filing with the
23 board a written notice of election on or before June 1, 1993, and complying with rules adopted pursuant to
24 subsection (6).

25 (5) County assessors and deputy assessors are eligible for the incentive program even if the employing
26 county has not elected to participate in the incentive program.

27 (6) The board may allow an employer to pay the contributions required under subsection (2)(a) in
28 installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403. The
29 board shall adopt rules to implement the provisions of this section.

30 (7) A member who has received additional service under this section and who returns to employment

1 for the same jurisdiction for 960 or more hours in a calendar year in a position covered by the public employees'
2 retirement system or for 600 or more hours in a calendar year in a position covered under any other retirement
3 system shall forfeit the additional service. The employer's contributions to purchase that member's additional
4 service credit, minus any retirement benefits already paid, must be refunded to the employer. For purposes of
5 this subsection, all agencies of the state, including the university system, are considered the same jurisdiction
6 and other public employers contracting with the retirement system are each considered separate jurisdictions."

7
8 **Section 34.** Section 19-3-1002, MCA, is amended to read:

9 **"19-3-1002. Eligibility for disability retirement.** (1) Except as provided in subsections (2) and (3), a
10 member entering service prior to February 24, 1991, who is not eligible for service retirement or early retirement
11 but who has at least 5 years of membership service and has become disabled while an active member is eligible
12 for disability retirement, as provided in 19-3-1008(1).

13 (2) An active member ~~age~~ who is 60 years of age or older and who has completed 5 years of
14 membership service and has had a duty-related accident forcing the member to terminate employment but who
15 has not received or is ineligible to receive workers' compensation benefits under Title 39, chapter 71, for the
16 duty-related accident may conditionally waive the member's eligibility for a service retirement in order to be
17 eligible for disability retirement. The waiver is effective only upon approval by the board of the member's written
18 application for disability retirement. The board shall determine whether a member has become disabled. The
19 board may request any information on file with the state compensation insurance fund concerning any
20 duty-related accident. If information is not available, the board may request and the state fund shall then provide
21 an investigative report on the disabling accident.

22 (3) (a) A member in service on February 24, 1991, has a one-time election to be covered for disability
23 purposes under the provisions of 19-3-1008(2). This election is irrevocable and must be made in writing by the
24 member no later than December 31, 1991. Coverage under the provisions of 19-3-1008(2) commences on the
25 date the completed written election is received by the board or its designated representative. To be eligible for
26 disability benefits under the provisions of this part, a member must have completed 5 years of membership
27 service and must have become disabled while an active member.

28 (b) An individual becoming a member after February 24, 1991, who has completed 5 years of
29 membership service and has become disabled while an active member is covered for disability purposes under
30 the provisions of 19-3-1008(2) or (3)."

1
2 **Section 35.** Section 19-3-1008, MCA, is amended to read:

3 **"19-3-1008. Benefit for disability.** (1) The monthly amount of the disability retirement benefit payable
4 to a member ~~eligible for disability retirement~~ under the provisions of 19-3-1002(1) is the greater of subsection
5 (1)(a) or (1)(b) as follows:

6 (a) 90% of one fifty-sixth of the member's highest average compensation multiplied by the member's
7 years of service credit, including any additional service credit purchased under 19-3-513; or

8 (b) a retirement benefit equal to 25% of the member's highest average compensation.

9 (2) Except as provided in subsection (3), the monthly amount of retirement benefit payable to a member
10 eligible for disability retirement under the provisions of 19-3-1002(3) is a retirement benefit equal to one fifty-sixth
11 of the member's highest average compensation multiplied by the member's years of service credit, including any
12 additional service credit purchased under 19-3-513.

13 (3) The monthly amount of retirement benefit payable to a member eligible for disability retirement under
14 the provisions of 19-3-1002(3) who has at least 25 years of membership service is a retirement benefit equal
15 to one-fiftieth of the member's highest average compensation multiplied by the member's years of service credit,
16 including any additional service credit purchased under 19-3-513.

17 (4) Subject to the provisions of part 11 of this chapter, a retired member receiving a disability retirement
18 benefit on February 24, 1991, who has previously been granted a disability retirement benefit under the
19 provisions of this section will continue to receive the monthly disability retirement benefit as calculated prior to
20 February 24, 1991, subject to any postretirement or cost-of-living increases granted by the legislature."
21

22 **Section 36.** Section 19-3-1015, MCA, is amended to read:

23 **"19-3-1015. Medical examination of disability retiree -- cancellation and reinstatement.** (1) The
24 board may, in its discretion, require a disabled member to undergo a medical examination. The examination
25 must be made by a physician or surgeon appointed by the board, at a place mutually agreed upon by the retired
26 member and the board. Upon the basis of the examination, the board shall determine whether the disabled
27 member is unable, by reason of physical or mental incapacity, to perform the essential elements of either the
28 position held by the member when the member retired or the position proposed to be assigned to the member.
29 If the board determines that the member is not incapacitated or if the member refuses to submit to a medical
30 examination, the member's disability retirement benefit must be canceled.

(2) If the board determines that a disabled member should no longer be subject to medical review, the board may grant service retirement status to the member without recalculating the monthly benefit. The board shall notify the member in writing as to the change in status. If the disabled member disagrees with the board's determination, the member may file a written application with the board requesting that the board reconsider its action. The written application for reconsideration must be filed within 60 days after receipt of the notice of the status change.

(3) (a) Except as provided in subsections (3)(b) and (3)(c), a member whose disability retirement benefit is canceled because the board has determined that the member is no longer incapacitated must be reinstated to the position held by the member immediately before the member's retirement or to a position in a comparable pay and benefit category with duties within the member's capacity if the member was an employee of the state or of the university. If the member was an employee of a contracting employer, the board shall notify the proper official of the contracting employer that the disability retirement benefit has been canceled and that the former employee is eligible for reinstatement to duty. The fact that the former employee was retired for disability may not prejudice any right to reinstatement to duty that the former employee may have or claim to have.

(b) A member who is employed by an employer terminates any right to reinstatement provided by this section.

(c) This section does not affect any requirement that the former employee meet or be able to meet professional certification and licensing standards unrelated to the disability and necessary for reinstatement to duty.

(4) If a member whose disability retirement benefit is canceled is not reemployed in a position subject to the retirement system, the member's service is considered, for the purposes of 19-2-602, to have been discontinued coincident with the commencement of the member's retirement benefit."

Section 37. Section 19-3-1106, MCA, is amended to read:

"19-3-1106. Limited reemployment -- reduction of service retirement benefit upon exceeding limits -- exception. (1) A retired member under 65 years of age who is receiving a service retirement benefit or early retirement benefit may return to employment covered by the retirement system for a period not to exceed 960 hours in any calendar year without returning to active service and without any effect to the retiree's retirement benefit. The retirement benefit for any retiree exceeding this 960-hour limitation in any calendar year after retirement must be temporarily reduced \$1 for each \$1 earned after working 960 hours in that calendar

1 year.

2 (2) A retiree 65 years of age or older who returns to employment covered by the retirement system is
3 either subject to the 960-hour limitation of subsection (1) or may earn in any calendar year an amount that, when
4 added to the retiree's current annual retirement benefits, will not exceed the member's annualized highest
5 average compensation, adjusted for inflation as of January 1 of the current calendar year, whichever limitation
6 provides the higher limit on earned compensation to the retiree. Upon reaching the applicable limitation, the
7 retiree's benefits must be temporarily reduced \$1 for each \$1 of compensation earned in ~~covered~~ service beyond
8 the applicable limitation during that calendar year.

9 (3) A retiree returning to employment covered by the retirement system and the returning employee's
10 employer shall certify to the board the number of hours worked by the retiree and the gross compensation paid
11 to the retiree in that employment during any month after retirement.

12 (4) A retiree returning to employment covered by the retirement system may elect to return to active
13 membership at any time during this period of covered employment.

14 (5) A retired member 70 1/2 years of age or older who returns to employment covered by the retirement
15 system is not subject to the hour or earnings limitations in subsections (1) and (2) or the reporting requirements
16 in subsection (3)."

17

18 **Section 38.** Section 19-3-1201, MCA, is amended to read:

19 **"19-3-1201. Eligibility for death payments.** Upon receipt of a written application filed with the board
20 by a designated beneficiary, the board shall grant a death ~~benefit~~ payment to the designated beneficiary of any
21 member who dies:

22 (1) while in service;

23 (2) within 6 months after the discontinuance of service but before retirement;

24 (3) while a recipient of a disability retirement benefit, if the benefit has been in effect less than 6 months;

25 ~~or~~

26 (4) while disabled, if the member has been continuously disabled since discontinuance of the member's
27 service but is not receiving a disability retirement benefit; or

28 (5) while an inactive member."

29

30 **Section 39.** Section 19-3-1202, MCA, is amended to read:

1 **"19-3-1202. Amount of lump-sum death payment.** (1) The amount of payment to be made to those
2 eligible for death payments is the sum of subsections (1)(a), ~~(2)~~ (1)(b), and ~~(3)~~ (1)(c) as follows:

3 ~~(1)~~(a) the member's accumulated contributions;

4 ~~(2)~~(b) an amount equal to one-twelfth of the compensation received by the member during the last 12
5 months of compensation multiplied by the smaller of six or the number of years of the member's service credit;
6 and

7 ~~(3)~~(c) the accumulated regular interest on the amounts in subsections ~~(1)~~ (1)(a) and ~~(2)~~ (1)(b) to the first
8 day of the month in which the payment is made.

9 (2) A beneficiary of an inactive member is not eligible to receive the payment described in subsection
10 (1)(b)."

11
12 **Section 40.** Section 19-3-1205, MCA, is amended to read:

13 **"19-3-1205. Amount of survivorship benefit.** The survivorship benefit payable to a member's
14 designated beneficiary is the actuarial equivalent of:

15 (1) the accrued portion of the early retirement benefit pursuant to 19-3-906 that would have been
16 payable to the member commencing at age 50 if the member had not attained age 50 or earned 25 years of
17 membership service ~~credit~~ at the time of death;

18 (2) if the deceased member had attained age 50 or earned 25 years of membership service ~~credit~~ at
19 the time of death, the early retirement benefit that would have been payable to the member if the member had
20 retired immediately prior to death; or

21 (3) if the deceased member had attained age 60 or earned 30 years of membership service ~~credit~~ at
22 the time of death, the service retirement benefit that would have been payable to the member if the member had
23 retired immediately prior to death."

24
25 **Section 41.** Section 19-3-1210, MCA, is amended to read:

26 **"19-3-1210. Death payments to designated beneficiaries of retired members.** If a retired member
27 dies without designating a contingent annuitant under 19-3-1501, the member's designated beneficiary or estate
28 must be paid the amount, if any, of the member's accumulated contributions calculated as of the day of the
29 member's retirement minus the total of any retirement benefits already paid from the member's account."

1 **Section 42.** Section 19-3-1501, MCA, is amended to read:

2 **"19-3-1501. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement
3 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted,
4 in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent
5 of the original benefit. The optional retirement benefit is initially payable during the member's or designated
6 beneficiary's lifetime, with a subsequent benefit to a contingent annuitant as follows:

7 (a) option 2--a continuation of the reduced amount after the death of the initial payee and payable during
8 the lifetime of the named contingent annuitant;

9 (b) option 3--a continuation of one-half of the reduced amount after the death of the initial payee and
10 payable during the lifetime of the named contingent annuitant;

11 (c) option 4--upon the initial payee's death, other actuarially equivalent amounts payable to a contingent
12 annuitant as may be approved by the board.

13 (2) The member or the designated beneficiary who elects an optional retirement benefit shall file a
14 written application with the board prior to the first payment of the benefit. A contingent annuitant must be
15 identified on the application.

16 (3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has been
17 made under option 2 or 3, the election of the option is automatically canceled.

18 (4) If a member dies after retirement and within 30 days from the date that the member's written
19 application electing or changing an election of an optional retirement benefit is received by the board, then the
20 election is void.

21 (5) (a) Upon filing a written application with the board, a retired member who is receiving an optional
22 retirement benefit that became effective before October 1, 1999, may designate a different contingent annuitant,
23 select a different option, or convert the member's optional retirement benefit to a regular retirement benefit if:

24 (i) the original contingent annuitant has died; or

25 (ii) the member's marriage to the original contingent annuitant has been dissolved and the original
26 contingent annuitant has ~~not been granted the~~ no right to receive the optional retirement benefit as part of the
27 ~~dissolution settlement or a family law order, as defined in 19-2-907.~~

28 (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly
29 retirement benefit to reflect the change.

30 (6) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b)

1 that is initially effective on or after October 1, 1999, may file a written application with the board to have the
2 optional retirement benefit revert to the regular retirement benefit available at the time of the member's
3 retirement, designate a different contingent annuitant, or select a different option if:

4 (i) the contingent annuitant has died, in which case the optional benefit ~~must~~ may revert effective on
5 the first day of the month following the contingent annuitant's death; or

6 (ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary ~~was not granted~~
7 the ~~has no~~ right to receive the optional retirement benefit as part of ~~the dissolution settlement or~~ a family law
8 order, in which case the benefit must revert effective on the first day of the month following receipt of the written
9 application and verification that the ~~dissolution settlement or~~ family law order does not grant the optional benefit
10 to the contingent annuitant.

11 (b) A regular retirement benefit provided pursuant to this subsection (6) must be increased by the ~~value~~
12 AMOUNT of any postretirement adjustments received by the member since the effective date of the member's
13 retirement.

14 (7) A written application pursuant to subsection (5) or (6) must be filed with the board within 18 months
15 of the death of or dissolution of marriage to the contingent annuitant."

16
17 **Section 43.** Section 19-3-2103, MCA, is amended to read:

18 **"19-3-2103. Legislative intent.** It is the intent of the legislature that, in implementing and administering
19 the defined contribution plan:

20 (1) changes to current administrative processes and the impact of those changes on employers be
21 minimized to the extent possible;

22 (2) the administrative structure for the plan be configured in an economical and efficient manner;

23 (3) administration and services for the plan be contracted out to the extent possible, but that the board
24 provide for the diligent oversight of the contracts;

25 (4) reasonable ~~participant~~ member services be provided for and that fees be commensurate with the
26 services;

27 (5) lines of communication and responsibilities be clearly established so that employers or their
28 personnel and payroll officers do not advise members about plan choices or investment alternatives; and

29 (6) employers be encouraged to provide paid time for ~~employees~~ members to attend educational
30 programs sponsored by the board pursuant to 19-3-112."

1
2 **Section 44.** Section 19-3-2111, MCA, is amended to read:

3 **"19-3-2111. Plan membership -- written election required -- failure to elect -- effect of election.**

4 (1) Except as otherwise provided in this part:

5 (a) (i) a member who is an active member of the defined benefit plan on the date that the defined
6 contribution plan becomes effective may, within 12 months after that date, elect to transfer to and become a
7 member of the plan regardless of whether the member remains active, becomes inactive, or terminates covered
8 employment and plan membership within the 12-month period;

9 (ii) a member who was an inactive member of the defined benefit plan on the date that the defined
10 contribution plan becomes effective and who is rehired into covered employment after the plan effective date
11 may, within 12 months after the member's rehire date, elect to transfer to and become a member of the plan
12 regardless of whether the member remains active, becomes inactive, or terminates covered employment and
13 plan membership within the 12-month period;

14 (b) a member who is initially hired into covered employment on or after the date that the defined
15 contribution plan becomes effective may, within 12 months of the member's hire date, elect to become a member
16 of the plan regardless of whether the member remains active, becomes inactive, or terminates covered
17 employment and plan membership within the 12-month period.

18 (2) (a) Elections made pursuant to this section must be made on a form prescribed by the board.

19 (b) A member failing to make an election prescribed by this section remains a member of the defined
20 benefit plan.

21 (c) An election under this section, including the default election pursuant to subsection (2)(b), is a
22 one-time irrevocable election. Subject to 19-3-2113, this subsection (2)(c) does not prohibit a new election after
23 ~~an employee~~ a member has terminated membership in either plan and returned to covered employment.

24 (3) A member in either the defined benefit plan or the defined contribution plan who becomes inactive
25 after an election under this section and who returns to active membership remains in the plan previously elected.

26 (4) A system member may not simultaneously be a member of the defined benefit plan and the defined
27 contribution plan and must be a member of either the defined benefit plan or the defined contribution plan. A
28 period of service may not be credited in more than one retirement plan within the system.

29 (5) The provisions of this part do not prohibit the board from adopting rules to allow an employee to elect
30 the defined contribution plan from the first day of covered employment.

(6) A member of the defined benefit plan who is subject to a family law order pursuant to 19-2-907 or an execution or income-withholding order pursuant to 19-2-909 may not transfer to the defined contribution plan unless the order is modified to apply under the defined contribution plan.

(7) (a) A member of the defined benefit plan who is purchasing service credit through installment payments, either made directly to the board or pursuant to a payroll deduction agreement, may not transfer membership to the defined contribution plan unless the member first completes or terminates the contract for purchase of service credit.

(b) A member who files an election to transfer membership may make a lump-sum payment for up to the balance of the service credit remaining to be purchased prior to transferring, subject to the limitations of section 415 of the Internal Revenue Code. The lump-sum payment, unless made by a rollover pursuant to 19-2-708, must be made with after-tax dollars.

(c) If a member who files an election to transfer membership fails to complete or terminate the contract for purchase of service credit by the end of the member's 12-month election window, the board shall terminate the SERVICE purchase contract and credit the member with the prorated amount of service credit purchased under the contract."

Section 45. Section 19-3-2112, MCA, is amended to read:

"19-3-2112. Plan choices for members employed by university system -- amount available to transfer -- effect on rights. (1) ~~If an employee of a member who is employed by the Montana university system~~ is eligible to make an election under this part to transfer to the defined contribution plan, the employee may, instead of electing the defined contribution plan, elect to transfer membership to the university system's optional retirement program provided for under chapter 21 of this title.

(2) Except as otherwise provided in this part, an election to transfer membership to the optional retirement program must be made in accordance with the following provisions:

(a) (i) A member employed by the university employee system who is an active member of the defined benefit plan on the effective date of the defined contribution plan may, within 12 months after that date, elect to transfer to and become a member of the optional retirement program regardless of whether the member remains active, becomes inactive, or terminates covered employment and plan membership within the 12-month period.

(ii) A ~~university employee member~~ who was an inactive member of the defined benefit plan on the effective date of the defined contribution plan and who is hired or rehired into covered employment with the

1 university system after that date may, within 12 months after the member's hire or rehire date, elect to transfer
2 to and become a member of the optional retirement program regardless of whether the member remains active,
3 becomes inactive, or terminates covered employment and plan membership within the 12-month period.

4 (iii) ~~An employee~~ A member who is initially hired into covered employment with the university system
5 on or after the effective date of the defined contribution plan may, within 12 months of the member's hire date,
6 elect to become a member of the optional retirement program regardless of whether the member remains active,
7 becomes inactive, or terminates covered employment and plan membership within the 12-month period.

8 (b) Elections made pursuant to this section must be made on a form prescribed by the board.

9 (c) A member failing to make an election prescribed by this section remains a member of the defined
10 benefit plan.

11 (d) An election under this section, including the default election pursuant to subsection (2)(c), is a
12 one-time irrevocable election. Subject to 19-3-2113, this subsection (2)(d) does not prohibit a new election after
13 an employee has terminated membership in the optional retirement program and returned to employment in a
14 position covered under the system.

15 (e) A member in either the defined benefit plan or the optional retirement program who becomes
16 inactive after an election under this section and who returns to active membership remains in the plan previously
17 elected.

18 (f) ~~A~~ Except as provided in subsection (2)(g), a university employee in a position covered under the
19 system may not simultaneously be a member of more than one retirement plan under chapters 3 and 21 of this
20 title, but must be a member of the defined benefit plan, the defined contribution plan, or the optional retirement
21 program as provided by applicable provisions of this title. The same period of service may not be credited in
22 more than one retirement system or plan.

23 (g) A university system employee who is or has been a member of the optional retirement program and
24 returns to or accepts covered employment other than with the university system may make an election pursuant
25 to 19-3-2111. That election is valid only for covered employment other than with the university system.

26 ~~(g)(h)~~ The provisions of this part do not prohibit the board from adopting rules to allow an eligible
27 employee to elect the optional retirement program from the first day of covered employment.

28 ~~(h)(i)~~ A member of the defined benefit plan who is subject to a family law order pursuant to 19-2-907
29 or an execution or income-withholding order pursuant to 19-2-909 may not transfer to the optional retirement
30 program unless the order is modified to apply under the optional retirement program.

1 (j) (i) A member of the defined benefit plan who is purchasing service credit through installment
2 payments, either made directly to the board or pursuant to a payroll deduction agreement, may not transfer
3 membership to the optional retirement program unless the member completes or terminates the contract for
4 purchase of service credit.

5 (ii) A member who files an election to transfer membership may make a lump-sum payment for up to
6 the balance of the service credit remaining to be purchased prior to transferring, subject to the limitations of
7 section 415 of the Internal Revenue Code. The lump-sum payment, unless made by a rollover pursuant to
8 19-2-708, must be made with after-tax dollars.

9 (iii) If a member who files an election to transfer fails to complete or terminate the contract for purchase
10 of service credit by the end of the member's 12-month election window, the board shall terminate the SERVICE
11 purchase contract and credit the member with the prorated amount of service credit purchased under the
12 contract.

13 (3) For an employee electing to transfer membership to the optional retirement program, the board shall
14 transfer to the optional retirement program the amount that the employee would have been able to transfer to
15 the defined contribution plan under 19-3-2114.

16 (4) An election to become a member of the optional retirement program pursuant to this section is a
17 waiver of all rights and benefits under the public employees' retirement system."
18

19 **Section 46.** Section 19-3-2113, MCA, is amended to read:

20 **"19-3-2113. Reinstatement of plan membership -- purchase of prior service credit in defined**
21 **benefit plan.** (1) (a) A ~~participant~~ member who terminates membership in the defined benefit plan, the defined
22 contribution plan, or the optional retirement program after making an election pursuant to 19-3-2111 or
23 19-3-2112 and who returns to covered employment in less than 24 months shall become a member of the plan
24 that the member last selected and is not eligible for a new plan choice election.

25 (b) A ~~participant~~ member who terminated membership in ~~either~~ the defined benefit plan, the defined
26 contribution plan, or the optional retirement program after making an election pursuant to 19-3-2111 or
27 19-3-2112 and who returns to covered employment after 24 months or more is eligible to make a plan choice
28 election as though initially hired as provided for in 19-3-2111(1)(b).

29 (2) (a) An employee who returns to covered employment after terminating membership in the defined
30 benefit plan, who is eligible to make a plan choice, and who elects to join the defined benefit plan may reinstate

1 prior membership service and service credit as provided in 19-2-603.

2 (b) An employee who returns to covered employment after terminating membership in the defined
3 contribution plan or the optional retirement program, who is eligible to make a plan choice, and who elects to
4 join the defined benefit plan may purchase prior membership service and service credit by paying to the board
5 the full actuarial cost of the service credit as of the latest actuarial valuation of the defined benefit plan. The
6 ~~employee member~~ may not purchase membership service and service credit under this section in excess of the
7 ~~employee's member's~~ length of service ~~as a member of~~ in the defined contribution plan or the optional retirement
8 program."
9

10 **Section 47.** Section 19-3-2114, MCA, is amended to read:

11 **"19-3-2114. Amount available to transfer.** (1) (a) For an employee who was a system member on the
12 day before the effective date of the defined contribution plan and who elects to transfer to the plan, the board
13 shall transfer from the defined benefit plan to the member's retirement account the employee's contributions and
14 the percentage of the employer's contributions specified in subsection (1)(b), plus 8% compounded annual
15 interest on the total of the transferred employee and employer contributions.

16 (b) Based on the contribution amount historically available to pay unfunded liabilities in the defined
17 benefit plan and the transferring member's years of membership service, the percentage of the employer
18 contributions that may be transferred are as follows:

| 19 Years of <u>membership</u> service | Percentage of employer contributions available to transfer |
|---------------------------------------|---|
| 20 | |
| 21 Less than 5 years | 65.53% |
| 22 5 to 9 years | 58.59% |
| 23 10 to 14 years | 55.26% |
| 24 15 to 19 years | 55.42% |
| 25 20 or more years | 57.53% |

26 (2) For an employee hired on or after the effective date of the defined contribution plan who elects to
27 become a member of the plan, the board shall transfer from the defined benefit plan to the member's retirement
28 account an amount equal to the amount that would have been credited to the member's account pursuant to
29 19-3-2117 had the employee become a plan member on the employee's hire date, plus 8% compounded annual
30 interest."

1
2 **Section 48.** Section 19-3-2115, MCA, is amended to read:

3 **"19-3-2115. Transfers or rollovers into plan -- service transfers -- membership credit for purposes**
4 **of vesting.** (1) (a) Except as provided in subsection (2), the board shall accept the rollover of contributions and
5 the income on those contributions from another qualified eligible retirement plan to the member's vested account
6 as allowed under applicable federal law.

7 (b) To transfer service credit from another retirement system in this title, an employee must be a
8 member of the defined benefit plan. The member must receive membership service and service credit for the
9 service the member transfers. The transferring member may, within 12 months after joining the defined benefit
10 plan, elect to become a member of the defined contribution plan. The transferred service credit may be used
11 for purposes of vesting in the defined contribution plan pursuant to 19-3-2116.

12 (2) ~~(a) After-tax money may not be transferred or rolled over to a retirement account unless the money~~
13 ~~was contributed to the system's defined benefit plan on an after-tax basis.~~

14 ~~(b) To the extent that the transfer or rollover is disallowed under the Internal Revenue Code provisions~~
15 ~~in effect as of the calendar year immediately preceding the date of the transfer or rollover, a member may not~~
16 ~~transfer or rollover to a retirement account contributions made under sections 403(b) and 457 of the Internal~~
17 ~~Revenue Code. The board shall accept a direct rollover of eligible distributions from another eligible retirement~~
18 ~~plan only to the extent permitted by the Internal Revenue Code."~~

19
20 **Section 49.** Section 19-3-2116, MCA, is amended to read:

21 **"19-3-2116. Vesting -- mandatory termination of membership -- forfeitures.** (1) ~~A member is fully~~
22 ~~vested with~~ member's contribution account includes the member's contributions and the income on those
23 contributions and is vested from the date that the employee becomes a member of the plan, ~~but is not~~
24 ~~considered a vested member unless the member meets the criteria under subsection (2).~~

25 (2) ~~A member is not vested with~~ member's employer contribution account includes the employer's
26 contributions and the income on those contributions and ~~does not attain the status of a vested member until is~~
27 vested only when the member has a total of 5 years of membership service under the system.

28 (3) A member's account for other contributions includes the member's rollovers of contributions made
29 pursuant to 19-3-2115 and income on those contributions and is vested from the date that the contribution is
30 credited to the account.

1 (4) A member who terminates covered employment after becoming a vested member may terminate
2 plan membership as provided in 19-3-2123.

3 ~~(3)(5) A member who terminates covered employment before becoming a vested member shall~~
4 ~~terminate plan membership by removing from the plan the member's entire vested account balance as provided~~
5 ~~in 19-3-2123 and subject to 19-3-2126. The employer contributions and income on the employer's contributions~~
6 ~~in the member's retirement account are forfeited and must be allocated as provided in 19-3-2117.~~

7 (6) If the member's employer contribution account is not vested upon termination of covered
8 employment, the employer contributions and income are forfeited and must be allocated as provided in
9 19-3-2117."

10
11 **Section 50.** Section 19-3-2117, MCA, is amended to read:

12 **"19-3-2117. Allocation of contributions and forfeitures.** (1) Each plan member's retirement account
13 must be credited with the ~~employee~~ member contributions made under 19-3-315.

14 (2) Subject to adjustment by the board as provided in 19-3-2121, beginning on the plan's effective date,
15 of the employer contributions under 19-3-316, an amount equal to:

16 (a) 4.19% of compensation must be allocated to the member's retirement account;

17 (b) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate; and

18 (c) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(c).

19 (3) Subject to adjustment by the board pursuant to 19-3-2121(6) and beginning on the plan's effective
20 date, of the employer contributions under 19-3-316, 0.3% of compensation must be allocated to the long-term
21 disability plan trust fund established pursuant to 19-3-2141.

22 (4) Forfeitures of employer contributions and investment income on the employer contributions may not
23 be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116
24 to meet the plan's administrative expenses, including startup expenses."

25
26 **Section 51.** Section 19-3-2126, MCA, is amended to read:

27 **"19-3-2126. Refunds -- minimum account balance -- adjustment by rule.** (1) Before termination of
28 service, a member may not receive a refund of any portion of the member's vested account balance.

29 (2) Except as provided in 19-3-2142, a ~~nonvested~~ member who terminates from service and whose
30 vested account balance is less than \$200 must be paid the vested account balance in a lump sum. If the

1 member's employer contribution account is not vested, the employer contributions and income are forfeited and
2 must be allocated as provided in 19-3-2117. The payment must be made as soon as administratively feasible
3 after the member's termination without a written application from the member.

4 (3) Except as provided in 19-3-2142, unless a written application is made pursuant to subsection (4)(a),
5 a ~~nonvested~~ member who terminates from service and whose vested account balance is between \$200 and
6 \$5,000 must be paid the vested account balance in a lump sum. The payment must be made as soon as
7 administratively feasible after the member's termination. If the member's employer contribution account is not
8 vested, the employer contributions and income are forfeited and must be allocated as provided in 19-3-2117.

9 (4) (a) Except as provided in 19-3-2142, upon the written application of a terminating member whose
10 vested account balance is \$200 or more, the board shall make a direct rollover distribution pursuant to section
11 401(a)(31) of the Internal Revenue Code of the eligible portion of that balance. To receive the direct rollover
12 distribution, the member is responsible for correctly designating, on forms provided by the board, ~~a~~ an eligible
13 retirement plan that allows the rollover ~~and is qualified~~ under applicable federal law.

14 (b) The direct rollover distribution must be paid directly to the ~~qualified~~ eligible retirement plan.

15 (c) ~~Except as provided in 19-3-2142, the amount of the member's vested account balance not eligible~~
16 ~~for a direct rollover distribution under subsection (4)(a) must be paid to the member in a lump sum.~~

17 (5) A member who terminates service with an account balance greater than \$5,000, whether vested
18 or not, may remain in the plan.

19 (5)(6) The board may by rule adjust the minimum account balance provided in this section as necessary
20 to maintain reasonable administrative costs and to account for inflation."

21
22 **Section 52.** Section 19-3-2133, MCA, is amended to read:

23 **"19-3-2133. ~~Creation of employee~~ Employee investment advisory council.** The board shall, ~~by~~
24 ~~August 1, 1999,~~ create an employee investment advisory council. The advisory council shall meet at least
25 ~~quarterly~~ four times a year to:

26 (1) advise the board concerning the ~~establishment and~~ operation of the defined contribution plan,
27 including the selection of the initial investment alternatives to be provided pursuant to 19-3-2122;

28 (2) advise the board about negotiating, contracting, or modifying services for the state deferred
29 compensation plan provided for in chapter 50; and

30 (3) review existing deferred compensation plans and to advise the board on the administration of the

1 program."

2
3 **Section 53.** Section 19-3-2141, MCA, is amended to read:

4 **"19-3-2141. Long-term disability plan -- benefit amount -- eligibility -- administration and**
5 **rulemaking.** (1) (a) Except as provided in subsection (1)(b), a disabled member eligible under the provisions
6 of this section is entitled to a disability benefit equal to one fifty-sixth of the member's highest average
7 compensation, as defined in 19-3-108, multiplied by the member's years of service credit, including any service
8 credit purchased under 19-3-513.

9 (b) An eligible member with at least 25 years of membership service ~~credit~~ is entitled to a disability
10 benefit equal to one-fiftieth of the member's highest average compensation, as defined in 19-3-108, multiplied
11 by the member's years of service credit, including any service credit purchased under 19-3-513.

12 (2) Payment of the disability benefit provided in this section is subject to the following:

13 (a) the member must be vested in the plan as provided in 19-3-2116;

14 (b) if the member's disability occurred when the member was under 60 years of age OR LESS, the benefit
15 may be paid only until the member reaches ~~60~~ 65 years of age; ~~and~~

16 (c) if the member's disability occurred after the member reached 60 years of age, the benefit may be
17 paid for no more than 5 years; and

18 ~~(e)(d)~~ (d) the member ~~must~~ shall satisfy the other applicable requirements of this section and the board's
19 rules adopted to implement this section.

20 (3) Application for a disability benefit must be made in accordance with 19-3-1005.

21 (4) The board shall make determinations on disability claims and conduct medical reviews in a manner
22 consistent with the provisions of 19-2-406 and 19-3-1015. A member may seek review of a board determination
23 as provided in rules adopted by the board.

24 (5) If a member receiving a disability benefit under this section dies, the disability benefit payments
25 cease and the member's beneficiary is entitled to death benefits only as provided for in 19-3-2125.

26 (6) The board shall establish a long-term disability plan trust fund from which disability benefit costs
27 pursuant to this section must be paid. The trust fund must be entirely separate and distinct from the defined
28 benefit plan trust fund.

29 (7) The board shall perform the duties, exercise the powers, and adopt reasonable rules to implement
30 the provisions of this section."

1

2 **Section 54.** Section 19-5-101, MCA, is amended to read:

3 **"19-5-101. Definitions.** Unless a different meaning is plainly implied by the context, the following
4 definitions apply in this chapter:

5 (1) "Compensation" means remuneration, as defined in 2-16-403, 3-5-211, and 3-7-222, paid to a
6 member.

7 (2) "Current salary" means the current compensation for the office retired from.

8 (3) "Highest average compensation" means ~~the average of the a~~ member's highest average monthly
9 compensation during any 36 consecutive months of membership service ~~in the retirement system.~~

10 (4) "Involuntary retirement" means a retirement not for cause and before retirement age.

11 (5) "Retired judge" means any judge or justice in receipt of a retirement benefit under this chapter."

12

13 **Section 55.** Section 19-5-301, MCA, is amended to read:

14 **"19-5-301. Membership -- inactive vested members -- inactive nonvested members.** (1) Except
15 for a judge or justice who elected in writing to remain under the public employees' retirement system on or before
16 October 1, 1985, a judge of a district court, a justice of the supreme court, and the chief water judge provided
17 for in 3-7-221 must be members of the Montana judges' retirement system.

18 (2) A judge pro tempore is not eligible for active membership in the retirement system.

19 (3) A member with at least 5 years of membership service who terminates service and does not take
20 a refund of the member's accumulated contributions is an inactive vested member and retains the right to
21 purchase service credit and to receive a retirement benefit under the provisions of this chapter.

22 (4) A member with less than 5 years of membership service who terminates service and leaves the
23 member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not
24 eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund
25 of the member's accumulated contributions."

26

27 **Section 56.** Section 19-5-409, MCA, is amended to read:

28 **"19-5-409. Application to purchase additional service.** (1) At any time before retirement, a member
29 may file a written application with the board to purchase additional service credit for the purpose of calculating
30 the member's retirement benefit. Except as provided in subsection (3), the member may purchase 1 year of

1 additional service credit for every 5 years of membership service that the member has in the retirement system.

2 (2) For each year of service credit purchased under this section, a member shall contribute to the
3 pension trust fund an amount equal to the actuarial cost of granting the service, based on the most recent
4 actuarial valuation of the system as determined by the board.

5 (3) A member may not purchase more than 5 years of service credit under 19-2-707 and this section.

6 (4) Service credit purchased under this section is not membership service and may not be used to
7 qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is
8 not eligible for ~~normal~~ service retirement."

9
10 **Section 57.** Section 19-5-501, MCA, is amended to read:

11 **"19-5-501. Eligibility for service retirement.** (1) A member who has at least 5 years of membership
12 service and has reached the age of 60 has attained normal retirement age and may retire and receive the
13 service retirement benefits provided in 19-5-502.

14 (2) Retirement benefits may not be approved by the board while the member is drawing full
15 compensation as a judge or justice. However, benefits may not be withheld for receiving compensation as a
16 judge pro tempore."

17
18 **Section 58.** Section 19-5-502, MCA, is amended to read:

19 **"19-5-502. Service retirement benefit.** ~~Upon retirement~~ After termination from service and upon
20 application for service retirement, the service retirement benefit must be as follows:

21 (1) for members not covered under 19-5-901, 3 1/3% a year of the member's current salary for the first
22 15 years of ~~credited~~ service credit and 1.785% a year for each year of ~~credited~~ service credit after 15 years; or

23 (2) for members covered under 19-5-901, the benefit provided under subsection (1) except that the
24 benefit must be calculated using highest average compensation."

25
26 **Section 59.** Section 19-5-701, MCA, is amended to read:

27 **"19-5-701. Optional forms of benefits -- designation of contingent annuitant.** (1) The retirement
28 benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted,
29 in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent
30 of the original benefit. The optional retirement benefit is initially payable during the member's or designated

1 beneficiary's lifetime, with a subsequent benefit to a contingent annuitant as follows:

2 (a) option 2--a continuation of the reduced amount after the death of the initial payee and payable during
3 the lifetime of the named contingent annuitant;

4 (b) option 3--a continuation of one-half of the reduced amount after the death of the initial payee and
5 payable during the lifetime of the named contingent annuitant;

6 (c) option 4--upon the initial payee's death, other actuarially equivalent amounts payable to a contingent
7 annuitant as may be approved by the board.

8 (2) The member or designated beneficiary who elects an optional retirement benefit shall file a written
9 application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on
10 the application.

11 (3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has been
12 made under option 2 or 3, the election of the option is automatically canceled.

13 (4) If the member dies after retirement and within 30 days from the date that the member's written
14 application electing or changing an election of an optional retirement benefit is received by the board, the
15 election is void.

16 (5) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b)
17 that is initially effective on or after October 1, 1999, may file a written application with the board to have the
18 optional retirement benefit revert to the regular retirement benefit available at the time of the member's
19 retirement if:

20 (i) the contingent annuitant has died, in which case the optional benefit must revert effective on the first
21 day of the month following the contingent annuitant's death; or

22 (ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary ~~was not granted~~
23 ~~the~~ has no right to receive the optional retirement benefit as part of ~~the dissolution settlement or~~ a family law
24 order, as defined in 19-2-907, in which case the benefit must revert effective on the first day of the month
25 following receipt of the written application and verification that the ~~dissolution settlement or~~ family law order does
26 not grant the optional benefit to the contingent annuitant.

27 (b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the ~~value~~
28 amount of any postretirement adjustments received by the member since the effective date of the member's
29 retirement.

30 (6) A written application pursuant to subsection (5) must be filed with the board within 18 months of the

1 death of or dissolution of marriage to the contingent annuitant.

2 (7) (a) Upon filing a written application with the board, a retired member who is receiving an optional
3 retirement benefit may designate a different contingent annuitant, select a different option, or convert the
4 member's optional retirement benefit to a regular retirement benefit if:

5 (i) the original contingent annuitant has died; or

6 (ii) the member has been divorced from the original contingent annuitant and the original contingent
7 annuitant has ~~not been granted the~~ no right to receive the optional retirement benefit as part of ~~the divorce~~
8 ~~settlement~~ a family law order as defined in 19-2-907.

9 (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly
10 retirement benefit to reflect the change."

11
12 **Section 60.** Section 19-6-101, MCA, is amended to read:

13 **"19-6-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this
14 chapter:

15 (1) (a) "Compensation" means remuneration paid for services to a member out of from funds controlled
16 by an employer in payment for the member's services or for time during which the member is excused from work
17 because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence before any
18 pretax deductions allowed by the Internal Revenue Code have been state or federal law are made, and
19 exclusive of

20 (b) Compensation does not include maintenance, allowances, and expenses.

21 (2) "Dependent child" means an unmarried child of a deceased retired member, who is:

22 (a) under 18 years of age; or

23 (b) under 24 years of age and attending an accredited postsecondary educational institution as a
24 full-time student in anticipation of receiving a certificate or degree.

25 (3) "Highest average compensation" means ~~the a member's~~ a member's highest average monthly compensation
26 ~~received by a member for during any 3 years of continuous service upon which contributions have been made~~
27 36 consecutive months of membership service or, in the event a member has not served ~~3 years~~ at least 36
28 months, the total compensation earned divided by the number of months ~~served~~ of service. Lump-sum payments
29 for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to ~~an~~
30 ~~employee~~ the member upon termination of ~~service~~ employment may be used in the calculation of a retirement

benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

(4) "Surviving spouse" means the spouse married to a retired member at the time of the retired member's death.

(5) "Survivor" means a surviving spouse or dependent child of a member."

Section 61. Section 19-6-401, MCA, is amended to read:

"19-6-401. Payments into pension trust fund. All appropriations made by the state, all contributions by members, in the amount specified, all interest on and increase of the investments and money under this pension trust fund, all fees or portions of fees that are required by law to be paid to the retirement system or trust fund, and a portion of the fees from driver's licenses and duplicate driver's licenses as provided in 61-5-121 must be ~~paid to~~ deposited in the pension trust fund."

Section 62. Section 19-6-502, MCA, is amended to read:

"19-6-502. Service retirement benefit. ~~Upon retirement~~ After termination from service and upon application for service retirement, a member must receive a service retirement benefit equal to 2.5% of the member's highest average compensation for each year of service credit."

Section 63. Section 19-6-503, MCA, is amended to read:

"19-6-503. Early retirement benefit for member discontinued from service other than for cause. If a member is discontinued from service other than for cause after having completed 5 years of membership service but before reaching normal retirement age, the member must, upon filing a written application with the board, be paid an early service retirement benefit that is of actuarial equivalent value to a service retirement based on a retirement age of 60."

Section 64. Section 19-6-601, MCA, is amended to read:

"19-6-601. Disability retirement benefit. (1) ~~In the case of the disability of a~~ A member; who becomes disabled must be granted a disability retirement benefit ~~must be granted the member~~ that is the actuarial equivalent of the service retirement benefit under 19-6-502 standing to the member's credit at the time of the

1 member's disability retirement. ~~If the disability is~~

2 (2) A member who becomes disabled as a direct result of any the member's service to the Montana
3 highway patrol in the line of duty, then the member who is disabled must be retired on a disability retirement
4 benefit of one-half the member's highest average compensation regardless of the member's length of service.;

5 (a) before completing 20 years of membership service must receive a disability retirement benefit equal
6 to one-half the member's highest average compensation; or

7 (b) after completing 20 years or more of membership service must receive a disability retirement benefit
8 equal to 2.5% of the member's highest average compensation for each year of service credit.

9 ~~(2)(3)~~ Upon the death of a ~~retired~~ member receiving a disability retirement benefit ~~as provided in~~
10 ~~subsection (1) under this section, the benefit must be paid to the member's surviving spouse or dependent child;~~
11 ~~if there is a spouse or child, in the same manner is eligible for benefits as provided for in 19-6-505(2) and (3)."~~

12
13 **Section 65.** Section 19-6-709, MCA, is amended to read:

14 **"19-6-709. (Temporary) Supplemental benefits for certain retirees.** (1) In addition to any retirement
15 benefit payable under this chapter, a retired member or a survivor determined by the board to be eligible under
16 subsection (2) must receive an annual lump-sum benefit payment beginning in September 1991 and each
17 succeeding year as long as the member remains eligible.

18 (2) To be eligible for the benefits under this section, a person must be receiving a monthly benefit before
19 July 1, 1991, may not be covered by 19-6-710, and must be:

20 (a) a retired member who is 55 years of age or older and who has been receiving a service retirement
21 benefit for at least 5 years prior to the date of distribution;

22 (b) a survivor of a member who would have been eligible under subsection (2)(a); or

23 (c) a recipient of a disability benefit under 19-6-601 or a survivorship benefit under 19-6-901.

24 (3) A retired member otherwise qualified under this section who is employed in a position covered by
25 a retirement system under Title 19 is ineligible to receive any lump-sum benefit payments provided for in this
26 section until the member's service in the covered position is terminated. Upon termination of the member's
27 ~~covered~~ service, the retired member becomes eligible in the next fiscal year succeeding the member's
28 termination.

29 (4) ~~The lump-sum payment~~ amount of fees transferred to the pension trust fund pursuant to
30 15-1-122(3)(E), 61-3-527(4)(b), and 61-3-562(1)(b) must be distributed proportionally as a lump-sum benefit

1 ~~payment to all each~~ eligible recipients recipient based on service credit at the time of retirement, subject to the
 2 following:

3 (a) a recipient under subsection (2)(c) is considered to have 20 years of service credit for the purposes
 4 of the distributions;

5 (b) any recipient of a ~~service~~ retirement benefit exceeding the maximum monthly benefit under
 6 19-6-707(2)(a) must have the recipient's service credit reduced 25% for the purposes of the distributions;

7 (c) the maximum annual increase in the amount of supplemental benefits paid to each individual under
 8 this section is the percentage increase for the previous calendar year in the annual average consumer price
 9 index for urban wage earners and workers, compiled by the bureau of labor statistics of the United States
 10 department of labor or its successor agency. (Terminates upon death of last eligible recipient--sec. 1, Ch. 567,
 11 L. 1991.)"

12
 13 **Section 66.** Section 19-6-801, MCA, is amended to read:

14 **"19-6-801. Application to purchase military service.** (1) ~~(a)~~ Except as ~~otherwise~~ provided in ~~this~~
 15 ~~section~~ subsection (1)(b) and subject to 19-6-805, a member with at least 15 years of service credit may, at any
 16 time prior to retirement, file a written application with the board to purchase service credit AND MEMBERSHIP
 17 SERVICE for up to 5 years of the member's active service in the armed forces of the United States ~~for the purpose~~
 18 ~~of calculating retirement benefits.~~

19 ~~(2) To purchase this military service:~~

20 ~~—— (a) a member who is not covered by 19-6-710 shall contribute the amount determined by the board to~~
 21 ~~be due based on the member's compensation and regular contribution rate in the member's 16th year for the~~
 22 ~~1st year purchased and, for each subsequent year purchased, an amount based on the member's compensation~~
 23 ~~and contribution rate in each of as many years succeeding the member's 16th year as are required to complete~~
 24 ~~the purchase, with regular interest from the date the member becomes eligible for this benefit to the date the~~
 25 ~~purchase is complete. The member may not purchase more military service under this subsection (2)(a) than~~
 26 ~~the member has service credit in excess of 15 years.~~

27 ~~—— (b) a member who is covered by 19-6-710 shall pay the actuarial cost of the member's military service,~~
 28 ~~based on the system's most recent actuarial valuation.~~

29 ~~(3)(b)~~ A member is not eligible to purchase active military service credit AND MEMBERSHIP SERVICE under
 30 ~~this section~~ subsection (1)(a) if the member:

1 ~~(a)~~(i) has retired from active duty in the armed forces of the United States with military retirement
2 benefits based on that military service;

3 ~~(b)~~(ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

4 ~~(c)~~(iii) is eligible to receive credit for that service in any other retirement system or plan.

5 (2) (a) Except as provided in subsection (2)(b) and subject to 19-6-805, a member with at least 15 years
6 of service credit may, at any time prior to retirement, file a written application with the board to purchase service
7 credit AND MEMBERSHIP SERVICE for up to 5 years of the member's reserve military service in the armed forces
8 of the United States.

9 (b) A member is not eligible to purchase reserve military service credit AND MEMBERSHIP SERVICE under
10 subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

11 (3) To purchase service credit AND MEMBERSHIP SERVICE under this section:

12 (a) a member who is not covered by 19-6-710 shall contribute the amount determined by the board to
13 be due based on the member's compensation and regular contribution rate in the member's 16th year for the
14 1st year purchased and, for each subsequent year purchased, an amount based on the member's compensation
15 and contribution rate in each of as many years succeeding the member's 16th year as are required to complete
16 the purchase, with regular interest from the date the member becomes eligible for this benefit to the date the
17 purchase is complete. The combined total of active and reserve military service credit AND MEMBERSHIP SERVICE
18 that a member may purchase may be no more than the member's service credit in excess of 15 years or 5 years,
19 whichever is less.

20 (b) a member who is covered by 19-6-710 shall pay the actuarial cost of the member's active or reserve
21 military service credit based on the system's most recent actuarial valuation."

22
23 **Section 67.** Section 19-6-803, MCA, is amended to read:

24 **"19-6-803. Application to purchase law enforcement service performed in another state. (1)**

25 Subject to 19-6-805, a member with at least 5 years of membership service ~~credit~~ may, at any time before
26 retirement, file a written application with the board to purchase 1 year of out-of-state law enforcement
27 employment for each year of service credit, unless the member is eligible to receive a retirement benefit in
28 another system or plan for that same service.

29 (2) To purchase this service credit, a member shall pay the actuarial cost of the service credit in the
30 retirement system, as determined by the board, based on:

(a) the member's compensation for the 12 months immediately preceding the date of the member's election to ~~cover~~ purchase the service credit under the retirement system; and

(b) the actuarial rate in effect at the time of purchase of service credit.

(3) Service credit purchased under this section may not be used to qualify a member to purchase military service credit under 19-6-801.

(4) Service credit purchased under this section may not be used in calculating a member's retirement benefit unless the last 5 years of service credit were earned under the retirement system. If, upon retirement, a member's purchased service credit may not be used in calculating the member's retirement benefit, the member must receive a refund of the amount paid by the member to purchase the service credit, plus regular interest on that amount."

Section 68. Section 19-6-804, MCA, is amended to read:

"19-6-804. Application to purchase additional service. (1) Subject to 19-6-805, a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for each 5 years of membership service that the member has in the retirement system.

(2) To purchase service credit under this section, a member shall pay the actuarial cost of the service credit, based on the system's most recent actuarial valuation as determined by the board.

(3) Service credit purchased under this section is not membership service and may not be used to qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not eligible for ~~normal~~ service retirement."

Section 69. Section 19-6-805, MCA, is amended to read:

"19-6-805. Service purchase limitation. A member may not purchase more than a combined total of 5 years of service credit under 19-6-801, 19-6-803, and 19-6-804."

Section 70. Section 19-7-101, MCA, is amended to read:

"19-7-101. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) "Compensation" means remuneration paid ~~for services to a member out of~~ from funds controlled

1 by an employer for the member's services or for time during which the member is excused from work because
2 the member has taken compensatory leave, sick leave, annual leave, or a leave of absence before any pretax
3 deductions allowed by the Internal Revenue Code state or federal law are made ~~and exclusive of.~~

4 (b) Compensation does not include maintenance, allowances, and expenses.

5 (2) "Highest average compensation" means ~~the~~ a member's highest average monthly compensation
6 ~~received by a member for during any 3 years~~ 36 consecutive months of ~~continuous service from which~~
7 ~~contributions were deducted~~ membership service or, in the event ~~that~~ a member has not served 3 years at least
8 36 months, the total compensation earned divided by the number of months ~~served~~ of service. Lump-sum
9 payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to
10 ~~an employee~~ the member upon termination of employment may be used in the calculation of a retirement benefit
11 only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a
12 month or months included in the calculation of the highest average compensation. A lump-sum payment may
13 not be added to a single month's compensation.

14 (3) "Investigator" means a person who is employed as a criminal investigator or as a gambling
15 investigator for the department of justice.

16 (4) "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully
17 trained, appropriately salaried, and regularly acting deputy sheriff with the requisite professional certification and
18 licensing."

19
20 **Section 71.** Section 19-7-301, MCA, is amended to read:

21 **"19-7-301. Membership -- inactive vested members -- inactive nonvested members.** (1) (a) Except
22 as provided in subsection (1)(b), each sheriff shall become a member of the sheriffs' retirement system.

23 (b) A sheriff who was a member of the public employees' retirement system on July 1, 1974, may
24 remain a public employees' retirement system member or elect to become a member of the sheriffs' retirement
25 system by filing a written election with the board at any time before retirement.

26 (2) (a) Except as provided in subsection (2)(b), an investigator ~~must~~ shall become a member of the
27 sheriffs' retirement system.

28 (b) An investigator who was a member of the public employees' retirement system on July 1, 1993, may
29 remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement
30 system by filing a written election with the board at any time before retirement.

(3) A member of the public employees' retirement system who begins employment in a position covered by the sheriffs' retirement system may remain in the public employees' retirement system or may elect to become a member of the sheriffs' retirement system by filing a written election with the board no later than 30 days after beginning the employment.

(4) A sheriff or investigator who elects to become a member of the sheriffs' retirement system must be an active member as long as actively employed in an eligible capacity, except as provided in 19-7-1101(2).

(5) A member with at least 5 years of membership service who terminates service and does not take a refund of the member's accumulated contributions is an inactive vested member and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this chapter.

(6) A member with less than 5 years of membership service who terminates service and leaves the member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 72. Section 19-7-312, MCA, is amended to read:

"19-7-312. Transfer of membership -- qualification purchase of previous service. A person who elects to become a member of the sheriffs' retirement system pursuant to 19-7-301 may transfer the member's ~~creditable~~ service credit in the public employees' retirement system into the sheriffs' retirement system under the provisions of ~~19-7-802~~ [section 1]."

Section 73. Section 19-7-502, MCA, is amended to read:

"19-7-502. ~~Early retirement~~ Retirement option. A member with at least 5 but less than 20 years of membership service ~~and who has not met the minimum eligibility requirements for service retirement~~ may retire with an ~~early~~ a retirement benefit commencing no sooner than the first day of the month following the member's 50th birthday. The ~~early~~ retirement benefit must be calculated to be the actuarial equivalent of the member's service retirement benefit as otherwise accrued, based upon payment commencing when the member would have completed 20 years of membership service or reached age 60, whichever event would have occurred first."

Section 74. Section 19-7-601, MCA, is amended to read:

"19-7-601. Disability retirement benefit. (1) ~~In the case of the disability of a member, regardless of~~

~~the member's length of service; A member who becomes disabled must be granted a disability retirement benefit must be awarded to the member based on that is the actuarial equivalent of the member's service retirement benefit under 19-7-503 standing to the member's credit at the time of the member's disability retirement. If the disability is~~

(2) A member who becomes disabled as a direct result of the member's service as a member in the line of duty, then the member must be awarded a benefit of one-half of the member's highest average compensation;

(a) before completing 20 years of membership service must receive a disability retirement benefit equal to one-half the member's highest average compensation; or

(b) after completing 20 years or more of membership service must receive a disability retirement benefit equal to 2.5% of the member's highest average compensation for each year of service credit."

Section 75. Section 19-7-801, MCA, is amended to read:

"19-7-801. Membership in municipal police officers' retirement system prior to or following city-county consolidation -- payment of benefits by two systems. (1) A law enforcement officer who has not changed employment but who has, because of a city-county consolidation, been transferred either from a city police force to a county sheriff's department or from a county sheriff's department to a city police force as a law enforcement officer is eligible for a service retirement benefit if the officer's combined service credit in the sheriffs' retirement system and the municipal police officers' retirement system satisfies the minimum membership service requirement of the system to which the officer last made contributions. A member who has elected to continue membership in the public employees' retirement system under 19-7-301 may continue the election. However, credit for service in the public employees' retirement system that has not been transferred prior to January 1, 1979, may not be transferred.

(2) A member of the municipal police officers' retirement system who begins employment in a position covered by the sheriffs' retirement system following a city-county consolidation may remain in the municipal police officers' retirement system or elect to become a member of the sheriffs' retirement system by filing a written election with the board no later than 30 days after beginning the employment.

(3) Eligibility for and calculation of disability retirement, death benefits, and refund of contributions are governed by the provisions of the retirement system to which the officer last made contributions.

(4) The service retirement benefit of a member described in subsection (1) must be calculated

1 separately for each system based on the service ~~credited~~ credit under each system. The calculation for the
2 sheriffs' retirement system portion of the benefit must include the appropriate reduction in the retirement benefit
3 for an optional retirement benefit elected under 19-7-1001. The final salary or highest average compensation
4 for each calculation must be based on the highest compensation earned while a member of either system. Each
5 system shall pay its proportionate share, based on the number of years of service ~~credited~~ credit, of the
6 combined benefit.

7 (5) Upon the death of a retired member receiving a service retirement benefit under this section, the
8 survivor or contingent annuitant and the continuing benefit must be determined separately for each system as
9 follows:

10 (a) For the municipal police officers' retirement system portion of the benefit, the surviving spouse must
11 receive a benefit equal to the municipal police officers' retirement system portion of the service retirement benefit
12 as calculated at the time of the member's retirement. If the retired member leaves no surviving spouse or upon
13 the death of the surviving spouse, the retired member's surviving dependent child, or children collectively if there
14 are more than one, must receive the same monthly benefits that a surviving spouse would receive for as long
15 as the child or one of the children remains dependent, as defined in 19-9-104. The benefits must be made to
16 the child's appointed guardian for the child's use. If there is more than one dependent child, upon each child no
17 longer qualifying as dependent under 19-9-104, the pro rata benefits to that child must cease and be paid to the
18 remaining children until all the children are no longer dependent.

19 (b) For the sheriffs' retirement system portion of the benefit:

20 (i) the contingent annuitant must receive a continuing benefit as determined under 19-7-1001, if the
21 retired member elected an optional retirement benefit; or

22 (ii) if the retired member did not elect an optional retirement benefit, any payment owed the retired
23 member, including the excess, if any, of the retired member's accumulated contributions standing to the retired
24 member's credit at the time of retirement less payments made to the retired member must be paid to the retired
25 member's designated beneficiary."

26
27 **Section 76.** Section 19-7-803, MCA, is amended to read:

28 **"19-7-803. Application to purchase military service.** (1) (a) Except as ~~otherwise~~ provided in ~~this~~
29 ~~section~~ subsection (1)(b) and subject to 19-7-805, a member with at least 15 years of service credit may, at any
30 time prior to retirement, file a written application with the board to purchase service credit AND MEMBERSHIP

~~SERVICE~~ for up to 5 years of the member's active service in the armed forces of the United States ~~for the purpose of calculating retirement benefits.~~

~~(2) To purchase this military service, the member shall pay the actuarial cost of the member's military service, based on the system's most recent actuarial valuation.~~

~~(3)(b)~~ A member is not eligible to purchase active military service credit AND MEMBERSHIP SERVICE under ~~this section subsection (1)(a)~~ if the member:

~~(a)(i)~~ has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;

~~(b)(ii)~~ is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

~~(c)(iii)~~ is eligible to receive credit for that service in any other retirement system or plan.

(2) (a) Except as provided in subsection (2)(b) and subject to 19-7-805, a member with at least 15 years of service credit may, at any time prior to retirement, file a written application with the board to purchase service credit AND MEMBERSHIP SERVICE for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member is not eligible to purchase reserve military service credit AND MEMBERSHIP SERVICE under subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

(3) To purchase service credit AND MEMBERSHIP SERVICE under this section, the member shall pay the actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial valuation.

(4) Military service credit AND MEMBERSHIP SERVICE purchased under this section subsection (1) or (2) is not membership service and may not be used in determining the member's eligibility for a service retirement benefit."

Section 77. Section 19-7-804, MCA, is amended to read:

"19-7-804. Application to purchase additional service. (1) Subject to 19-7-805, a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 additional year of service credit for each 5 years of membership service.

(2) To purchase service credit under this section, a member shall pay the actuarial cost of the service credit in the sheriffs' retirement system, as determined by the board, based on the system's most recent actuarial valuation.

(3) Service credit purchased under this section may not be used to qualify a member for the purchase of military service under 19-7-803.

(4) Service credit purchased under this section must be credited for the purpose of meeting retirement eligibility and for calculating retirement benefits."

Section 78. Section 19-7-805, MCA, is amended to read:

"19-7-805. Service purchase limitation. A member may not purchase a combined total of more than 5 years of service credit under 19-7-803 and 19-7-804."

Section 79. Section 19-7-1001, MCA, is amended to read:

"19-7-1001. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. The optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime with a subsequent benefit to a contingent annuitant, as follows:

(a) option 2--a continuation of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(b) option 3--a continuation of one-half of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4--upon the initial payee's death, other actuarially equivalent amounts payable to a contingent annuitant as may be approved by the board.

(2) The member or the designated beneficiary who elects an optional retirement benefit shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(4) If the member dies after retirement and within 30 days from the date that the member's written application electing or changing an election of an optional retirement benefit is received by the board, the election is void.

(5) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b)

1 that is initially effective on or after October 1, 1999, may file a written application with the board to have the
2 optional retirement benefit revert to the regular retirement benefit available at the time of the member's
3 retirement if:

4 (i) the contingent annuitant has died, in which case the optional benefit must revert effective on the first
5 day of the month following the contingent annuitant's death; or

6 (ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary ~~was not granted~~
7 ~~the~~ has no right to receive the optional retirement benefit as part of ~~the dissolution settlement or~~ a family law
8 order, as defined in 19-2-907, in which case the benefit must revert effective on the first day of the month
9 following receipt of the written application and verification that the ~~dissolution settlement or~~ family law order does
10 not grant the optional benefit to the contingent annuitant.

11 (b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the ~~value~~
12 amount of any postretirement adjustments received by the member since the effective date of the member's
13 retirement.

14 (6) A written application pursuant to subsection (5) must be filed with the board within 18 months of the
15 death of or dissolution of marriage to the contingent annuitant.

16 (7) (a) Upon filing a written application with the board, a retired member who is receiving an optional
17 retirement benefit may designate a different contingent annuitant, select a different option, or convert the
18 member's optional retirement benefit to a regular retirement benefit if:

19 (i) the original contingent annuitant has died; or

20 (ii) the member has been divorced from the original contingent annuitant and the original contingent
21 annuitant has ~~not been granted the~~ no right to receive the optional retirement benefit as part of the ~~divorce~~
22 ~~settlement a family law order, as defined in 19-2-907.~~

23 (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly
24 retirement benefit to reflect the change."
25

26 **Section 80.** Section 19-8-101, MCA, is amended to read:

27 **"19-8-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this
28 chapter:

29 (1) (a) "Compensation" means remuneration paid ~~for services to a member out of~~ from funds controlled
30 by an employer in payment for the member's services or for time during which the member is excused from work

1 ~~because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence before any~~
2 ~~pretax deductions allowed by the Internal Revenue Code state or federal law are made and exclusive of.~~

3 (b) Compensation does not include maintenance, allowances, and expenses.

4 (2) "Highest average compensation" means ~~the a member's~~ highest average monthly compensation
5 ~~received by a member for during any 3 years~~ 36 consecutive months of ~~continuous service upon which~~
6 ~~contributions were made~~ membership service or, in the event a member has not served ~~3 years~~ at least 36
7 months, the total compensation earned divided by the number of months ~~served~~ of service. Lump-sum payments
8 for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to ~~an~~
9 ~~employee~~ the member upon termination of employment may be used in the calculation of a retirement benefit
10 only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a
11 month or months included in the calculation of the highest average compensation. A lump-sum payment may
12 not be added to a single month's compensation.

13 (3) "Game warden" means a state fish and game warden hired by the department of fish, wildlife, and
14 parks and includes all warden supervisory personnel whose salaries or compensation is paid out of the
15 department of fish, wildlife, and parks money.

16 (4) "Motor carrier officer" means an employee of the department of transportation appointed as a peace
17 officer pursuant to 61-12-201.

18 (5) "Peace officer" or "state peace officer" means a person who by virtue of the person's employment
19 with the state is vested by law with a duty to maintain public order or make arrests for offenses while acting
20 within the scope of the person's authority or who is charged with specific law enforcement responsibilities on
21 behalf of the state."

22
23 **Section 81.** Section 19-8-301, MCA, is amended to read:

24 **"19-8-301. Membership -- inactive vested members -- inactive nonvested members.** (1) Except
25 as provided in 19-8-302, the following state peace officers must be covered under the game wardens' and peace
26 officers' retirement system and, beginning on the first day of employment, shall become and remain active
27 members for as long as they are employed as peace officers:

28 (a) game wardens who are assigned to law enforcement in the department of fish, wildlife, and parks;

29 (b) motor carrier officers employed by the department of transportation;

30 (c) campus security officers employed by the university system;

1 (d) wardens and deputy wardens employed by the department of corrections;

2 (e) corrections officers employed by the department of corrections;

3 (f) probation and parole officers employed by the department of corrections;

4 (g) stock inspectors and detectives employed by the department of livestock;

5 (h) motor vehicle inspectors employed by the department of justice; and

6 (i) drill instructors employed by the department of corrections.

7 (2) A member with at least 5 years of membership service who terminates service and does not take
8 a refund of the member's accumulated contributions is an inactive vested member and retains the right to
9 purchase service credit and to receive a retirement benefit under the provisions of this chapter.

10 (3) A member with less than 5 years of membership service who terminates service and leaves the
11 member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not
12 eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund
13 of the member's accumulated contributions."

14
15 **Section 82.** Section 19-8-302, MCA, is amended to read:

16 **"19-8-302. Public employees' retirement system -- transfer of membership.** (1) Except as provided
17 in subsections (2) and (4), an eligible peace officer shall become a member of the game wardens' and peace
18 officers' retirement system on the first day of ~~covered~~ service.

19 (2) A member of the public employees' retirement system who first becomes eligible for membership
20 in the game wardens' and peace officers' retirement system on July 1, 1997, may elect to become a member
21 of the retirement system or may continue membership in the public employees' retirement system by filing a
22 written election that must be received by the board no later than December 31, 2001.

23 (3) A person who is a member of the game wardens' and peace officers' retirement system assigned
24 to law enforcement who transfers to a position involving duties other than law enforcement within the same state
25 agency may retain membership in the retirement system by filing a written election with the board no later than
26 30 days after transfer to the new position.

27 (4) A person who is a member of the public employees' retirement system who transfers to a position
28 covered by the game wardens' and peace officers' retirement system may elect to become a member of the
29 retirement system or may continue membership in the public employees' retirement system by filing a written
30 election with the board no later than 30 days after transfer to the new position."

Section 83. Section 19-8-308, MCA, is amended to read:

"19-8-308. Transfer of service. A person who elects to become a member of the game wardens' and peace officers' retirement system pursuant to 19-8-302 may transfer the member's service credit in the public employees' retirement system into the game wardens' and peace officers' retirement system under the provisions of ~~19-8-902~~ [section 1]."

Section 84. Section 19-8-604, MCA, is amended to read:

"19-8-604. Early retirement benefit. If a member is discontinued from service after having completed 5 years of membership service but before reaching normal retirement age, the member must, upon filing a written application with the board, be paid a service retirement benefit beginning on the member's 55th birthday calculated under the provisions of 19-8-603."

Section 85. Section 19-8-701, MCA, is amended to read:

"19-8-701. Disability retirement benefit. (1) A member who ~~is determined by the board to be~~ becomes disabled must be granted a disability retirement benefit ~~in an amount calculated on that~~ is the actuarial equivalent of the service retirement benefit under 19-8-603 standing to the member's credit at the time of the member's disability retirement.

(2) ~~If the disability is~~ A member who has at least 5 years of membership service and who becomes disabled as a direct result of any the member's service to the state in the line of duty and the member has at least 5 years of membership service, the member who is disabled must be retired on a disability retirement benefit of not less than one-half of the member's highest average compensation.:

(a) before completing 20 years of membership service must receive a disability retirement benefit equal to one-half the member's highest average compensation; or

(b) after completing 20 years or more of membership service must receive a disability retirement benefit equal to 2.5% of the member's highest average compensation for each year of service credit."

Section 86. Section 19-8-801, MCA, is amended to read:

"19-8-801. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must, in lieu of all other

benefits under this chapter, be converted into an optional retirement benefit that is the actuarial equivalent of the original benefit. The optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime with a subsequent benefit to a contingent annuitant as follows:

(a) option 2--a continuation of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(b) option 3--a continuation of one-half of the reduced amount after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4--upon the initial payee's death, other actuarially equivalent amounts payable to a contingent annuitant as may be approved by the board.

(2) The member or the designated beneficiary who elects an optional retirement benefit shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(3) If a benefit recipient or the recipient's contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(4) If the member dies after retirement and within 30 days from the date that the member's written application electing or changing an election of an optional retirement benefit is received by the board, the election is void.

(5) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b) that is initially effective on or after October 1, 1999, may file a written application with the board to have the optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

(i) the contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

(ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary ~~was not granted the~~ has no right to receive the optional retirement benefit as part of ~~the dissolution settlement or~~ a family law order, as defined in 19-2-907, in which case the benefit must revert effective on the first day of the month following receipt of the written application and verification that the ~~dissolution settlement or~~ family law order does not grant the optional benefit to the contingent annuitant.

(b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the ~~value~~ amount of any postretirement adjustments received by the member since the effective date of the member's

1 retirement.

2 (6) A written application pursuant to subsection (5) must be filed with the board within 18 months of the
3 death of or dissolution of marriage to the contingent annuitant.

4 (7) (a) Upon filing a written application with the board, a retired member who is receiving an optional
5 retirement benefit may designate a different contingent annuitant, select a different option, or convert the
6 member's optional retirement benefit to a regular retirement benefit if:

7 (i) the original contingent annuitant has died; or

8 (ii) the member has been divorced from the original contingent annuitant and the original contingent
9 annuitant has not been granted the right to receive the optional retirement benefit as part of ~~the divorce~~
10 ~~settlement~~ a family law order.

11 (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly
12 retirement benefit to reflect the change."
13

14 **Section 87.** Section 19-8-901, MCA, is amended to read:

15 **"19-8-901. Application to purchase military service.** (1) (a) Except as ~~otherwise~~ provided in ~~this~~
16 ~~section~~ subsection (1)(b) and subject to 19-8-906, a member with at least 15 years of service credit may, at any
17 time prior to retirement, file a written application with the board to purchase service credit AND MEMBERSHIP
18 SERVICE for up to 5 years of the member's active service in the armed forces of the United States ~~for the purpose~~
19 ~~of calculating retirement benefits~~.

20 ~~(b) To purchase this military service, the member shall pay the actuarial cost of the member's military~~
21 ~~service, based on the system's most recent actuarial valuation as determined by the board.~~

22 ~~(2)(b)~~ A member is not eligible to purchase active military service credit AND MEMBERSHIP SERVICE under
23 ~~this section~~ subsection (1)(a) if the member:

24 ~~(a)(i)~~ has retired from active duty in the armed forces of the United States with military retirement
25 benefits based on that military service;

26 ~~(b)(ii)~~ is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

27 ~~(c)(iii)~~ is eligible to receive credit for that service in any other retirement system or plan.

28 (2) (a) Except as provided in subsection (2)(b) and subject to 19-8-906, a member with at least 15 years
29 of service credit may, at any time prior to retirement, file a written application with the board to purchase service
30 credit AND MEMBERSHIP SERVICE for up to 5 years of the member's reserve military service in the armed forces

1 of the United States.

2 (b) A member is not eligible to purchase reserve military service credit AND MEMBERSHIP SERVICE under
3 subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

4 (3) To purchase service credit AND MEMBERSHIP SERVICE under this section, the member shall pay the
5 actuarial cost of the member's active or reserve military service based on the system's most recent actuarial
6 valuation."

7
8 **Section 88.** Section 19-8-904, MCA, is amended to read:

9 **"19-8-904. Application to purchase additional service.** (1) Subject to 19-8-906, a member with at
10 least 5 years of membership service, may, at any time before retirement, file a written application with the board
11 to purchase 1 year of additional service credit for each 5 years of membership service that the member has
12 qualified in the retirement system.

13 (2) To purchase service credit under this section, a member shall pay the actuarial cost of the service
14 credit, based on the system's most recent actuarial valuation as determined by the board.

15 (3) Service credit purchased under this section is not membership service and may not be used to
16 qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is
17 not eligible for ~~normal~~ service retirement."

18
19 **Section 89.** Section 19-8-905, MCA, is amended to read:

20 **"19-8-905. Absence due to injury or illness.** (1) Time, not to exceed 5 years, during which a member
21 is absent because of an injury or illness is considered membership service if, within 1 year after the end of the
22 absence, the injury or illness is determined to have arisen out of and in the course of the member's employment.
23 However, the member may not earn service ~~credits~~ credit for the absence unless the member complies with
24 subsections (2) and (3), in which case the absence is considered as time spent in service for both service ~~credits~~
25 credit and membership service.

26 (2) (a) A member absent because of an employment-related injury entitling the member to workers'
27 compensation payments may, upon the member's return to service, contribute an amount equal to the
28 contributions that the member would have made on the basis of the member's compensation at the
29 commencement of the member's absence plus regular interest accruing from 1 year from the date after the
30 member returns to ~~covered~~ service to the date the member contributes for the period of absence.

(b) Whenever a member elects to contribute under subsection (2)(a), the employer shall contribute employer contributions for the period of absence based on the salary as calculated in subsection (2)(a) and may pay interest on the employer's contribution calculated in the same manner as interest on the employee's contribution under subsection (2)(a). An employer electing to make an interest payment shall do so for all employees similarly situated. If the employer elects not to pay the interest costs, this amount must be paid by the employee.

(3) At some time after returning to covered service, a member shall file with the board a written notice of the member's intent to pay the contributions under subsection (2).

(4) A member loses the right to contribute for an absence under this section if all of the member's accumulated contributions are refunded pursuant to 19-2-602 or for the period of time during which benefits are received if the member retires during the absence."

Section 90. Section 19-8-906, MCA, is amended to read:

"19-8-906. Service purchase limitation. A member may not purchase more than a combined total of 5 years of service credit under 19-8-901 and 19-8-904."

Section 91. Section 19-9-104, MCA, is amended to read:

"19-9-104. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) "Compensation" means the remuneration, excluding overtime, holiday payments, shift differential payments, compensation time payments, and payments in lieu of sick leave and annual leave, paid for services to a member out of from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by the Internal Revenue Code have been state or federal law are made.

(b) Compensation does not include:

(i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave and annual leave; and

(ii) maintenance, allowances, and expenses.

(2) "Dependent child" means a child of a deceased member:

(a) who is unmarried and under 18 years of age; or

(b) who is unmarried, under 24 years of age, and attending an accredited postsecondary educational

1 institution as a full-time student in anticipation of receiving a certificate or degree.

2 (3) "Employer" means any city that participated in a prior plan or that elects to join this retirement system
3 under 19-9-207.

4 (4) "Final average compensation" means the monthly compensation of a member; averaged over the
5 last 36 months of the member's service or, in the event a member has not ~~been a member that long, over the~~
6 period of membership served at least 36 months, the total compensation earned divided by the number of
7 months of service.

8 (5) "Minimum retirement date" means the first day of the month coinciding with or, if none coincides,
9 the date on which a member both becomes age 50 and completes 5 years of membership service.

10 (6) Any reference to "municipality", "city", or "town" includes those jurisdictions that, prior to the effective
11 date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban
12 law enforcement services, or the entire county included in the county-municipal consolidation.

13 (7) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly acting
14 officer with the requisite professional certification and licensing.

15 (8) "Prior plan" means the local police reserve or pension trust fund of a city that elects to join the
16 retirement system under 19-9-207.

17 (9) "Retirement date" means the date on which the first payment of the retirement, disability, or
18 survivorship benefits of a member or a survivor is payable.

19 (10) "Surviving spouse" means the spouse married to a member at the time of the member's death.

20 (11) "Survivor" means a surviving spouse or dependent child of the member."
21

22 **Section 92.** Section 19-9-301, MCA, is amended to read:

23 **"19-9-301. Active membership -- inactive vested member -- inactive nonvested member.** (1) A
24 police officer becomes an active member of the retirement system:

25 (a) on the date the police officer's service with an employer commences;

26 (b) on July 1, 1977, if the police officer is employed by an employer on that date; or

27 (c) in the case of an employer that elects to join the retirement system, as provided in 19-9-207, on the
28 effective date of the election if the police officer is employed by the employer on that date. A person who is a
29 member of the public employees' retirement system on the date of the employer's election may remain in the
30 public employees' retirement system or may elect to become a member of the municipal police officers'

1 retirement system by filing a written election with the board no later than 30 days after the date of the employer's
2 election.

3 (2) Upon becoming eligible for membership, the police officer shall complete the forms and furnish the
4 proof required by the board.

5 (3) A member becomes an inactive member on the first day of an approved absence from service of
6 a substantial duration.

7 (4) A member with at least 5 years of membership service who terminates service and does not take
8 a refund of the member's accumulated contributions is an inactive vested member and retains the right to
9 purchase service credit and to receive a retirement benefit under the provisions of this chapter.

10 (5) A member with less than 5 years of membership service who terminates service and leaves the
11 member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not
12 eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund
13 of the member's accumulated contributions."
14

15 **Section 93.** Section 19-9-403, MCA, is amended to read:

16 **"19-9-403. Application to purchase military service.** (1) ~~(a)~~ Except as ~~otherwise~~ provided in ~~this~~
17 ~~section subsection (1)(b)~~ and subject to 19-9-406, a member with at least 15 years of service credit may, at any
18 time prior to retirement, file a written application with the board to purchase service credit AND MEMBERSHIP
19 SERVICE for up to 5 years of the member's active duty service in the armed forces of the United States ~~for the~~
20 ~~purpose of calculating retirement benefits.~~

21 ~~(2) To purchase this military service, the member shall pay the actuarial cost of the member's military~~
22 ~~service, based on the system's most recent actuarial valuation.~~

23 ~~—— (3) The member may not purchase more military service than the member's years of membership~~
24 ~~service in excess of 15 years.~~

25 ~~(4)(b)~~ A member is not eligible to purchase active military service credit AND MEMBERSHIP SERVICE under
26 ~~this section subsection (1)(a)~~ if the member:

27 ~~(a)(i)~~ has retired from active duty in the armed forces of the United States with a military retirement
28 benefit based on that military service;

29 ~~(b)(ii)~~ is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

30 ~~(c)(iii)~~ is eligible to receive credit for that service in any other retirement system or plan.

1 (2) (a) Except as provided in subsection (2)(b) and subject to 19-9-406, a member with at least 15 years
2 of service credit may, at any time prior to retirement, file a written application with the board to purchase service
3 credit AND MEMBERSHIP SERVICE for up to 5 years of the member's reserve military service in the armed forces
4 of the United States.

5 (b) A member is not eligible to purchase reserve military service credit AND MEMBERSHIP SERVICE under
6 subsection (2)(b) (2)(A) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that
7 service.

8 (3) To purchase service credit AND MEMBERSHIP SERVICE under this section, the member shall pay the
9 actuarial cost of the member's active or reserve military service credit based on the system's most recent
10 actuarial valuation.

11 (4) The combined total of active and reserve military service CREDIT AND MEMBERSHIP SERVICE a member
12 may purchase may be no more than the member's service credit in excess of 15 years or 5 years, whichever
13 is less."

14
15 **Section 94.** Section 19-9-405, MCA, is amended to read:

16 **"19-9-405. Purchase of other Montana public service.** (1) (a) A member may, at any time before
17 retirement, file a written application with the board to purchase all or any portion of the member's service credit
18 in the public employees', highway patrol officers', firefighters' unified, sheriffs', or game wardens' and peace
19 officers' retirement system to the extent that the member either has received or is eligible to receive a refund
20 of the member's accumulated contributions.

21 (b) To purchase this service credit, the member shall pay the actuarial cost of the service credit in the
22 municipal police officers' retirement system, as determined by the board, based on the system's most recent
23 actuarial valuation minus the employer contribution provided in subsection (1)(c).

24 (c) Upon receiving the member's payment under subsection (1)(b), the board shall transfer from the
25 member's former retirement system to the municipal police officers' retirement system an amount equal to the
26 employer contributions made during the member's service but no more than an amount equal to the regular
27 contribution rate minus the employee contribution rate in the municipal police officers' retirement system,
28 according to the most recent actuarial valuation, based on the salaries earned by the employee as a member
29 of the former system.

30 (2) (a) A member may, at any time before retirement, file a written application with the board to purchase

1 all or a portion of full-time public service employment performed for the state or a political subdivision of the
2 state. The member shall provide salary and employment documentation certified by the member's public
3 employer. The board shall grant service credit subject to the board's rules. To purchase service credit under this
4 section, the employee shall pay the actuarial cost of the service credit in the municipal police officers' retirement
5 system, as determined by the board, based on the system's most recent actuarial valuation.

6 (b) The board is the sole authority under this subsection (2) in determining what constitutes full-time
7 public service."
8

9 **Section 95.** Section 19-9-406, MCA, is amended to read:

10 **"19-9-406. Service purchase limitation.** A member may not purchase more than a combined total of
11 5 years of service credit under 19-9-403 and 19-9-411."
12

13 **Section 96.** Section 19-9-410, MCA, is amended to read:

14 **"19-9-410. Transfer to public employees' retirement system.** When an injured nonvested member
15 accepts a transfer under 7-32-4136 to a nonpolice position within the municipality covered under the public
16 employees' retirement system, all service and contributions previously credited with the municipal police officers'
17 retirement system must be transferred from the municipal police officers' retirement system pension trust fund
18 along with the interest to the public employees' retirement system pension trust fund. The employer contributions
19 and interest transferred must be equal to the amount that would have been contributed if the transferred service
20 credit had been normal employment covered under the public employees' retirement system."
21

22 **Section 97.** Section 19-9-411, MCA, is amended to read:

23 **"19-9-411. Application to purchase additional service.** (1) Subject to 19-9-406, a member with at
24 least 5 years of membership service may, at any time before retirement, file a written application with the board
25 to purchase 1 year of additional service credit for each 5 years of membership service.

26 (2) To purchase service credit under this section, a member shall pay the actuarial cost of the service,
27 based on the system's most recent actuarial valuation as determined by the board.

28 (3) Service credit purchased under this section is not membership service and may not be used to
29 qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is
30 not eligible for ~~normal~~ service retirement."

1
2 **Section 98.** Section 19-9-903, MCA, is amended to read:

3 **"19-9-903. Amount of disability retirement benefit -- continuation of benefit after death of**
4 **member.** (1) A member who ~~is eligible under 19-9-902 before earning 20 years of service credit must receive~~
5 ~~a disability retirement benefit equal to one-half the member's final average compensation~~ becomes disabled:

6 (a) before completing 20 years of membership service must receive a disability retirement benefit equal
7 to one-half the member's final average compensation; or

8 (b) after completing 20 years or more of membership service must receive a disability retirement benefit
9 equal to 2.5% of the member's final average compensation for each year of service credit.

10 ~~(2) A member who is retired under 19-9-902 and who, at the time of the member's injury or disability,~~
11 ~~was eligible at the member's option to be retired under 19-9-801 but had elected to serve years in excess of 20~~
12 ~~years of service credit and was then serving additional years must be paid for the additional years at the rate~~
13 ~~prescribed in 19-9-804.~~

14 ~~(3)~~(2) Upon the death of a member receiving a disability retirement benefit under this section, the
15 member's surviving spouse or dependent child is eligible for benefits as provided in 19-9-804."
16

17 **Section 99.** Section 19-9-1202, MCA, is amended to read:

18 **"19-9-1202. Definitions.** Unless the context requires otherwise, as used in this part, the following
19 definitions apply:

20 (1) "DROP" means the deferred retirement option plan established pursuant to this part.

21 (2) "DROP accrual" means the monthly benefit, including any postretirement adjustments, that would
22 have been payable had the participant terminated employment and retired, multiplied by each month of the
23 DROP period that the participant completes, plus interest.

24 ~~(2)~~(3) "DROP benefit" means the lump-sum benefit calculated and distributed as provided in this part.

25 ~~(3)~~(4) "DROP period" means the period of time that a member irrevocably elects to participate in the
26 DROP pursuant to 19-9-1204.

27 (5) "Monthly DROP accrual" means the amount equal to the monthly benefit that would have been
28 payable to the participant had the participant terminated employment and retired.

29 ~~(4)~~(6) "Participant" means a member of the retirement system who has elected to participate in the
30 DROP pursuant to this part."

1

2 **Section 100.** Section 19-9-1204, MCA, is amended to read:

3 **"19-9-1204. Eligibility -- participation criteria -- membership status -- service interruptions.** (1) Any
4 member eligible to retire under 19-9-801(2) is eligible and may elect to participate in the DROP by filing a
5 one-time irrevocable election with the board on a form prescribed by the board.

6 (2) A member electing to participate in the DROP shall participate for a minimum of 1 month and may
7 not participate for more than 5 years.

8 (3) A member may participate in the DROP only once.

9 (4) A participant remains a member of the retirement system, but may not receive membership service
10 or service credit in the system for the duration of the member's DROP period.

11 (5) If participation is interrupted by military service or ~~disability~~ other temporary absence from work and
12 the participant has not received any distribution from the DROP, then the duration of the absence may not be
13 included in calculating the DROP period."

14

15 **Section 101.** Section 19-9-1205, MCA, is amended to read:

16 **"19-9-1205. Retirement system contributions -- benefit payments to individual accounts --**
17 **investment returns.** (1) During a member's participation in the DROP, state contributions under 19-9-702,
18 employer contributions under 19-9-703, and member contributions under 19-9-710 must continue to be made
19 to the retirement system.

20 (2) For each DROP participant, the board shall calculate a DROP benefit accrual equal to the monthly
21 benefit, including any postretirement adjustments, that would have been payable had the participant terminated
22 employment and retired, multiplied by each month of the DROP period that the participant completes."

23

24 **Section 102.** Section 19-9-1206, MCA, is amended to read:

25 **"19-9-1206. Survivorship benefits.** (1) If a participant dies prior to the receipt of the DROP benefit
26 pursuant to 19-9-1208, the participant's surviving spouse or dependent child is entitled to receive a lump-sum
27 payment equal to the participant's DROP benefit and the member's accumulated contributions minus any
28 benefits paid from the member's account, including monthly DROP accruals.

29 (2) If there is no surviving spouse or dependent child, the designated beneficiary is entitled to receive
30 a lump-sum payment equal to the participant's DROP benefit.

(3) The benefit paid pursuant to this section must include interest reflecting the retirement system's annual investment earnings from the date the member's DROP period commenced."

Section 103. Section 19-9-1207, MCA, is amended to read:

"19-9-1207. Employment and benefits after DROP period. (1) Except as otherwise provided in this section, if a member continues employment in a covered position after the DROP period ends, the board shall consider the member newly hired as of the date the DROP period ended.

(2) When a member, after the end of the DROP period, continues employment in a covered position, state contributions under 19-9-702, employer contributions under 19-9-703, and member contributions under 19-9-710 must continue to be made to the retirement system.

(3) A member who, after the end of the DROP period, continues employment in a covered position:

(a) is immediately vested for benefits accrued subsequent to the end of the DROP period; and

(b) is, upon terminating covered employment, entitled to:

(i) the member's service retirement benefit earned prior to the DROP period, including any postretirement benefit adjustment for which the member is eligible under this chapter;

(ii) a service retirement benefit based on the member's service credit and final average compensation during membership subsequent to the end of the DROP period, including any postretirement benefit adjustment for which the member is eligible under this chapter; and

(iii) the member's DROP benefit."

Section 104. Section 19-9-1208, MCA, is amended to read:

"19-9-1208. Distribution of DROP benefit. (1) Upon termination of covered employment, a participant is entitled to:

(a) receive a lump-sum distribution of the participant's DROP benefit;

(b) roll the participant's DROP benefit into another ~~qualified~~ eligible retirement plan in a manner prescribed and authorized by the board; or

(c) any other distribution or method of payment of the DROP benefit approved by the board.

(2) A distribution pursuant to this section is subject to the provisions of 19-2-907 and 19-2-909 and all other applicable provisions of Title 19 and the Internal Revenue Code.

(3) The amount of a distribution, rollover, transfer, or other payment of a DROP benefit pursuant to this

1 section must include interest reflecting the retirement system's annual investment earnings from the date the
2 member's DROP period commenced."

3
4 **Section 105.** Section 19-13-104, MCA, is amended to read:

5 **"19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this
6 chapter:

7 (1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a
8 county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban
9 firefighting services, or the entire county included in the county-municipal consolidation.

10 (2) "Compensation" means:

11 (a) for a full-paid firefighter, the ~~regular remuneration, excluding overtime, holiday payments, shift~~
12 ~~differential payments, compensatory time payments, and payments in lieu of sick leave, paid for the firefighter's~~
13 ~~service as a firefighter out of~~ paid from funds controlled by an employer in payment for the member's services
14 ~~before any pretax deductions allowed under the Internal Revenue Code have been~~ by state and federal law are
15 made;

16 (b) for a part-paid firefighter employed by a city of the second class:

17 (i) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential payments,
18 compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a newly
19 confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

20 (ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, excluding
21 overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of
22 sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the
23 second class.

24 (c) Compensation for full-paid and part-paid firefighters does not include:

25 (i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments
26 in lieu of sick leave; and

27 (ii) maintenance, allowances, and expenses.

28 (3) "Dependent child" means a child of a deceased member who is:

29 (a) unmarried and under 18 years of age; or

30 (b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution

as a full-time student in anticipation of receiving a certificate or degree.

(4) "Employer" means any city that is of the first or second class or that elects to join this retirement system under 19-13-211 or, with respect to firefighters covered in the retirement system pursuant to 19-13-210(2), the department of military affairs established in 2-15-1201.

(5) "Final average compensation" means the monthly compensation of a member averaged over the last 36 months of the member's active service or, ~~if the member has not been a member that long, over the period of the member's~~ in the event a member has not served at least 36 months, the total compensation earned divided by the number of months of service. Lump-sum payments for annual leave paid to the member upon termination of ~~service~~ employment may be used to replace, on a month-for-month basis, the ~~normal~~ regular compensation for a month or months included in the calculation of final average compensation.

(6) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

(7) "Full-paid firefighter" means a person appointed by an employer as a firefighter under the standards provided in 7-33-4106.

(8) "Minimum retirement date" means the first day of the month coinciding with or immediately following, if none coincides, the date on which a member becomes both age 50 or older and completes 5 or more years of membership service.

(9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives compensation in excess of \$300 a year for service as a firefighter.

(10) "Prior plan" means the fire department relief association plan of a city that elects to join the retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second class.

(11) "Retirement date" means the date on which the first payment of benefits is payable.

(12) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

(13) "Surviving spouse" means the spouse married to a member at the time of the member's death."

Section 106. Section 19-13-301, MCA, is amended to read:

"19-13-301. Active membership -- inactive vested member -- inactive nonvested member. (1)

Except as provided in subsection (7), a full-paid firefighter becomes an active member of the retirement system:

(a) on the first day of the firefighter's service with an employer;

(b) on July 1, 1981, if the firefighter is employed by an employer on that date; or

(c) in the case of an employer who elects to join the retirement system, as provided in 19-13-211, on the effective date of the election if the firefighter is employed by the employer on that date.

(2) Upon becoming eligible for membership, the firefighter shall complete the forms and furnish any proof required by the board.

(3) A part-paid firefighter may elect to become a member of the retirement system by filing a membership application with the board within 6 months of becoming a part-paid firefighter or March 21, 2001, whichever is later.

(4) An active member becomes an inactive member upon the occurrence of the earliest of the following:

(a) the date on which the member ceases service with an employer;

(b) the 31st day of an approved absence from active duty with an employer; or

(c) the date on which the member ceases to be employed because of a reduction of the number of firefighters in the fire department as provided in 7-33-4125.

(5) A member with at least 5 years of membership service who terminates service and does not take a refund of the member's accumulated contributions is an inactive vested member and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this chapter.

(6) A member with less than 5 years of membership service who terminates service and leaves the member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund of the member's accumulated contributions.

(7) (a) A firefighter previously employed in a position covered under the public employees' retirement system and who is first hired into a position covered under the firefighters' unified retirement system after attaining 45 years of age may elect to remain in the public employees' retirement system.

(b) A firefighter making an election to remain in the public employees' retirement system shall make the election in a manner prescribed by the board within 30 days of being hired into the position otherwise covered under the firefighters' unified retirement system."

Section 107. Section 19-13-403, MCA, is amended to read:

"19-13-403. Application to purchase military service. (1) (a) Except as ~~otherwise~~ provided in ~~this section~~ subsection (1)(b) and subject to 19-13-406, a member with at least 15 years of service credit may, at any time prior to retirement, file a written application with the board to purchase service credit AND MEMBERSHIP

~~SERVICE~~ for up to 5 years of the member's active duty service in the armed forces of the United States ~~for the purpose of calculating retirement benefits.~~

~~(b) To purchase this military service, the member shall pay the actuarial cost of the service, based on the system's most recent actuarial valuation.~~

~~(2) A member may not purchase more military service than the member's years of membership service in excess of 15 years.~~

~~(3)(b)~~ A member is not eligible to purchase active military service credit AND MEMBERSHIP SERVICE under this section subsection (1)(a) if the member:

~~(a)(i)~~ has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;

~~(b)(ii)~~ is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

~~(c)(iii)~~ is eligible to receive credit for that service in any other retirement system or plan.

(2) (a) Except as provided in subsection (2)(b) and subject to 19-13-406, a member with at least 15 years of service credit may, at any time prior to retirement, file a written application with the board to purchase service credit AND MEMBERSHIP SERVICE for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member is not eligible to purchase reserve military service credit AND MEMBERSHIP SERVICE under subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

(3) To purchase service credit AND MEMBERSHIP SERVICE under this section, the member shall pay the actuarial cost of the service credit based on the system's most recent actuarial valuation.

(4) The combined total of active and reserve military service credit AND MEMBERSHIP SERVICE a member may purchase may be no more than the member's service credit in excess of 15 years or 5 years, whichever is less.

~~(4)(5)~~ Military service credit AND MEMBERSHIP SERVICE purchased under this section is not membership service and may not be used in determining the member's eligibility for a service retirement benefit."

Section 108. Section 19-13-405, MCA, is amended to read:

"19-13-405. Application to purchase additional service. (1) Subject to 19-13-406, a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for each 5 years of membership service.

(2) To purchase service credit under this section, a member shall pay the actuarial cost of the service credit, based on the system's most recent actuarial valuation as determined by the board.

(3) Service credit purchased under this section is not membership service and may not be used to qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not eligible for normal service retirement."

Section 109. Section 19-13-406, MCA, is amended to read:

"19-13-406. Service purchase limitation. A member may not purchase more than a combined total of 5 years of service credit under 19-13-403 and 19-13-405."

Section 110. Section 19-13-701, MCA, is amended to read:

"19-13-701. Eligibility for service retirement. (1) A member who has completed 20 years or more of membership service has attained normal retirement age and is eligible for service retirement.

(2) A vested member who terminates service before ~~the minimum retirement date~~ completing 20 years of service and keeps the member's accumulated contributions on deposit has attained normal retirement age and is eligible for service retirement commencing on the member's minimum retirement date."

Section 111. Section 19-13-704, MCA, is amended to read:

"19-13-704. Amount of service retirement benefit. (1) Except as provided in subsection (2), a member who retires with at least 5 years of membership service must receive a service retirement benefit equal to 2.5% of the member's final average compensation for each year of service credit.

(2) A member hired before July 1, 1981, who does not elect to be covered under 19-13-1010 is entitled to the greater of:

(a) the benefit provided under subsection (1); or

(b) (i) if the member retires with less than 20 years of membership service, a benefit equal to 2% of the member's final monthly compensation for each year of service; or

(ii) if the member retires with 20 or more years of membership service, a benefit equal to 50% of the member's final monthly compensation plus 2% of the member's final monthly compensation for each year of service over 20 years.

(3) Upon a retired member's death, the benefit must be made to the surviving spouse. If there is no

1 surviving spouse or if the surviving spouse dies and if the member leaves one or more dependent children, the
2 children are entitled to receive the benefit as long as they remain dependent children as defined in 19-13-104."

3
4 **Section 112.** Section 19-13-803, MCA, is amended to read:

5 **"19-13-803. Amount of disability retirement benefit.** (1) A member who becomes disabled:

6 (a) before completing 20 years of membership service must receive a disability retirement benefit equal
7 to one-half the member's final average compensation;

8 (b) after completing 20 years or more of membership service must receive a disability retirement benefit
9 equal to 2.5% of the member's final average compensation for each year of service credit.

10 (2) ~~A member's disability retirement benefit must be paid first to the member during the member's~~
11 ~~lifetime and, upon the member's death, to the member's surviving spouse. If upon a member's~~ Upon the death
12 of a member receiving a disability retirement benefit under this section, the member leaves no member's
13 surviving spouse or upon the death of the surviving spouse, the member's benefit must be paid to the member's
14 dependent children as long as they remain dependent children child is eligible for benefits as defined provided
15 in 19-13-104."

16
17 **Section 113.** Section 19-13-1007, MCA, is amended to read:

18 **"19-13-1007. Minimum benefit adjustment.** (1) The following applies to a member with 10 or more
19 years of membership service who has not elected to be covered under 19-13-1010:

20 (a) For the member or the member's surviving spouse or dependent children, the service retirement
21 benefit provided in 19-13-704, the disability retirement benefit provided in 19-13-803, and the survivorship
22 benefit provided in 19-13-902 may not be less than one-half the monthly compensation paid to a newly
23 confirmed, active firefighter of the employer that last employed the member as a firefighter, as provided each
24 year in the budget of that employer.

25 (b) If after a member retires, the employer that last employed the member no longer employs a full-paid
26 firefighter, the member's or survivor's benefit under subsection (1)(a) must be adjusted on the basis of the
27 average monthly compensation paid to all newly confirmed full-paid firefighters, as provided each year in the
28 budgets of those employers that participate in the retirement system and employ a full-paid firefighter.

29 (2) If the employment of a vested member hired before July 1, 1981, who has not elected to be covered
30 under 19-13-1010 is involuntarily discontinued because of the termination of employment of all full-paid

1 firefighters of the employer that employed the member, the member's service retirement benefit provided in
2 19-13-704 and the member's spouse's or dependent child's survivorship benefit provided in 19-13-902(1) may
3 not be less than:

4 (a) if the member has earned 20 years or more of membership service, one-half the average monthly
5 compensation paid to all newly confirmed, full-paid firefighters, as provided each year in the budgets of those
6 employers that participate in the retirement system and employ a full-paid firefighter; or

7 (b) if the member has earned more than 5 but less than 20 years of membership service, 2.5% of the
8 average monthly compensation paid to all newly confirmed, full-paid firefighters, as provided each year in the
9 budgets of those employers that participate in the retirement system and employ a full-paid firefighter, for each
10 year of the member's service."
11

12 **Section 114.** Section 19-17-108, MCA, is amended to read:

13 **"19-17-108. Credit for service as volunteer firefighter.** (1) The annual period of service that may be
14 credited under this chapter is the fiscal year. A fractional part of a year may not count toward the service required
15 for participation in this system. To be eligible to receive credit for any particular year, a volunteer firefighter shall
16 serve with a fire company throughout the entire fiscal year.

17 (2) The years of service are cumulative and need not be continuous. Separate periods of service
18 properly credited with different fire companies in different fire districts must be credited toward a member's
19 eligibility for full or partial benefits.

20 (3) A volunteer firefighter must receive credit for service during any fiscal year if:

21 (a) during the fiscal year, the volunteer firefighter completes a minimum of 30 hours of instruction in
22 matters pertaining to firefighting under a formal program that has been formulated, supervised, and certified to
23 the board by the chief or supervisor of the fire company;

24 (b) the volunteer firefighter's participation in the program is documented in the fire department records
25 filed and maintained by the chief or supervisor;

26 ~~(b)(c)~~ the fire company maintained firefighting equipment that is in serviceable condition and owns one
27 or more buildings used for the storage of that equipment that all together are valued at \$12,000 or more; and

28 ~~(e)(d)~~ the fire company or the fire district served by it was rated in class 5, 6, 7, 8, 9, or 10 by the board
29 of fire underwriters for the purpose of fire insurance premium rates."
30

1 **Section 115.** Section 19-17-402, MCA, is amended to read:

2 **"19-17-402. Certificate of eligibility.** The chief or presiding officer of each fire company that claims
3 eligibility under this chapter shall, on or before September 1 of each year, file a certificate on a form to be
4 provided by the board, subscribed and verified under oath before a notary, stating whether the company qualified
5 under 19-17-108(3) during the preceding fiscal year. The certificate must contain the date of organization. The
6 certificate must list the full name, social security number, and date of birth of each member of the fire company
7 who was a member for the entire fiscal year and satisfactorily completed 30 hours of instruction during the
8 preceding fiscal year, as required by 19-17-108(3). The certificate must be maintained by the board for the
9 purpose of establishing service for members and eligibility for benefits."

10
11 **Section 116.** Section 19-17-403, MCA, is amended to read:

12 **"19-17-403. Application for benefits.** (1) A member may, as provided in this section, apply for
13 retirement benefits before terminating ~~covered~~ service, but commencement of the benefits must be as provided
14 in 19-17-411.

15 (2) A member, surviving spouse, or dependent child shall apply for benefits on a form provided by the
16 board.

17 (3) The application must contain:

18 (a) the name, address, and date of birth of the member, surviving spouse, or dependent child;

19 (b) the date of birth of the member;

20 (c) the date of the member's death, if applicable; and

21 (d) the fiscal years during which service as an active member is claimed and the names of the fire
22 companies with which the service was rendered.

23 (4) The board may require any proof of age, death, and service that it may consider proper, but it must
24 accept a certificate properly completed and timely filed under 19-17-402 or subsection (3) of section 22, Chapter
25 157, Laws of 1977, as prima facie proof of service."

26
27 **Section 117.** Section 19-17-405, MCA, is amended to read:

28 **"19-17-405. Survivorship benefits to surviving spouse or dependent children.** (1) Subject to
29 subsection (2) and the limitation in subsection ~~(3)~~(4), survivorship benefits equal to the full or partial pension
30 benefits otherwise payable to the deceased member must be paid or continue to be paid to:

1 (a) the surviving spouse or, unless the spouse is convicted of knowingly, purposely, or intentionally
2 causing a member's death or disability;

3 (b) the dependent children upon the spouse's death; or

4 (c) if the deceased member left no surviving spouse but left a dependent child, to the guardian or other
5 person having custody of the dependent child.

6 (2) Benefits payable to a dependent child must be paid pursuant to 19-2-803.

7 ~~(2)~~(3) The survivorship benefit must be paid in each of the following circumstances:

8 (a) the death on or after July 1, 1995, of a member who had at least 10 years of service and who was
9 not receiving pension benefits; or

10 (b) the death on or after July 1, 1985, of a retired member who was receiving pension benefits but who
11 had not received benefits for a total of 40 months.

12 ~~(3)~~(4) Survivorship benefits under subsection (1) terminate when benefits have been paid for a total of
13 40 months, including any pension or disability benefits paid to the retiree before death. At the request of the
14 recipient, a lump-sum payment may be made in lieu of up to 40 months of survivorship benefits."
15

16 **Section 118.** Section 19-50-102, MCA, is amended to read:

17 **"19-50-102. Deferred compensation programs permitted -- rules.** (1) The state or a political
18 subdivision may establish deferred compensation plans that are eligible under section 457 of the Internal
19 Revenue Code of 1954, {26 U.S.C. 457}, as amended or superseded, and in compliance with regulations of the
20 U.S. department of the treasury. Eligible deferred compensation plans for employees may be established in
21 addition to any retirement, pension, or other benefit plan administered by the state or a political subdivision.

22 (2) An employee may enter into a written agreement with the state or a political subdivision to defer a
23 part of the employee's compensation to one or more of the investment options provided in subsection (4) for the
24 purpose of investment as provided by this chapter. The total amount deferred may not exceed the employee's
25 annual salary and may not exceed the amounts permitted under applicable sections of the Internal Revenue
26 Code.

27 (3) Compensation deferred pursuant to this chapter is included as compensation for the purpose of
28 computing retirement or pension benefits.

29 (4) The board or an appropriate officer of a political subdivision shall from time to time select the type
30 of investment options and the financial institutions or entities in which state or political subdivision employee

1 deferred compensation plan funds may be invested. The board or an appropriate officer of a political subdivision
2 shall notify affected plan members of potential changes in investment options and financial institutions before
3 the changes are made. The investment options and entities may include:

4 (a) a state deferred compensation investment fund established pursuant to Title 17 for the purpose of
5 administering a state-invested deferred compensation plan. All contributions made by participants in the state
6 deferred compensation investment fund and all interest or increase in the fund must be credited to the fund.
7 These state-invested funds may be commingled with other state investment funds, but separate accounting must
8 be maintained. The assets of the fund must be maintained for the benefit of participants and may not be diverted
9 except for paying the reasonable expenses for administering the state deferred compensation investment fund.

10 (b) savings accounts in federally insured financial institutions;

11 (c) life insurance contracts and fixed annuity and variable annuity contracts from companies that are
12 licensed to do business in the state and subject to regulation by the insurance commissioner;

13 (d) investment funds managed pursuant to investment services contracts maintained by the board or
14 an appropriate officer of a political subdivision with investment managers registered with the United States
15 securities and exchange commission, unless exempt from the commission's regulation;

16 (e) mutual funds provided through contracts maintained by the board or an appropriate officer of a
17 political subdivision with mutual fund companies regulated by the United States securities and exchange
18 commission, unless exempt from the commission's regulation; or

19 (f) a combination of the items in subsections (4)(a) through (4)(e).

20 (5) The deferred compensation plan funds invested pursuant to this section and the income from those
21 funds must be held in a trust, custodial account, or insurance contract for the exclusive benefit of participants
22 and their beneficiaries.

23 (6) The administrator may allocate any necessary costs against the assets and interest earnings
24 accumulated in funds, accounts, or contracts established under this chapter.

25 (7) The board or appropriate officer of a political subdivision shall promulgate rules not inconsistent with
26 this chapter for the proper administration of deferred compensation plans established under this chapter."
27

28 **Section 119.** Section 25-13-608, MCA, is amended to read:

29 **"25-13-608. Property exempt without limitation -- exceptions.** (1) A judgment debtor is entitled to
30 exemption from execution of the following:

- 1 (a) professionally prescribed health aids for the judgment debtor or a dependent of the judgment debtor;
- 2 (b) benefits the judgment debtor has received or is entitled to receive under federal social security or
- 3 local public assistance legislation, except as provided in subsection (2);
- 4 (c) veterans' benefits, except as provided in subsection (2);
- 5 (d) disability or illness benefits, except as provided in subsection (2);
- 6 (e) except as provided in subsection (2), individual retirement accounts, as defined in 26 U.S.C. 408(a),
- 7 to the extent of deductible contributions made before the suit resulting in judgment was filed and the earnings
- 8 on those contributions, and Roth individual retirement accounts, as defined in 26 U.S.C. 408A, to the extent of
- 9 qualified contributions made before the suit resulting in judgment was filed and the earnings on those
- 10 contributions;
- 11 (f) benefits paid or payable for medical, surgical, or hospital care to the extent they are used or will be
- 12 used to pay for the care;
- 13 (g) maintenance and child support; ~~and~~
- 14 (h) a burial plot for the judgment debtor and the debtor's family;
- 15 (i) benefits or payments paid or payable from a retirement system or plan within Title 19, chapters 3,
- 16 5 through 9, and 13, as provided by 19-2-1004; and
- 17 (j) benefits or payments paid or payable from a retirement system or plan within Title 19, chapter 20,
- 18 as provided by 19-20-706.
- 19 (2) Veterans' and social security legislation benefits based upon remuneration for employment, disability
- 20 benefits, and assets of individual retirement accounts are not exempt from execution if the debt for which
- 21 execution is levied is for:
- 22 (a) child support; or
- 23 (b) maintenance to be paid to a spouse or former spouse."
- 24

25 **NEW SECTION. Section 120. Repealer.** Sections 19-3-509, 19-3-1604, 19-6-802, 19-7-802, 19-8-902,

26 19-9-405, and 19-13-404, MCA, are repealed.

27

28 **NEW SECTION. Section 121. Codification instruction.** [Section 1] is intended to be codified as an

29 integral part of Title 19, chapter 2, part 7, and the provisions of Title 19, chapter 2, part 7, apply to [section 1].

30

1 NEW SECTION. SECTION 122. COORDINATION INSTRUCTION. IF EITHER HOUSE BILL NO. 44 OR SENATE BILL
2 NO. 66, OR BOTH, AND [THIS ACT] ARE PASSED AND APPROVED THEN:

3 (1) SECTION 22 OF [THIS ACT], AMENDING 19-3-503, MCA, MUST READ AS FOLLOWS:

4 **"Section 22.** Section 19-3-503, MCA, is amended to read:

5 **"19-3-503. Application to purchase military service.** (1) (a) Except as provided in subsection (2)
6 ~~(1)(b)~~ and subject to 19-3-514, a member with at least ~~40~~ 5 years of membership service credit may, at any time
7 prior to retirement, file a written application with the board to purchase service credit and membership service
8 for up to 5 years of the member's active service in the armed forces of the United States, including the first
9 special service force or the American merchant marine in oceangoing service during the period of armed conflict,
10 December 7, 1941, to August 15, 1945.

11 ~~(b) To purchase this service, the member shall pay the actuarial cost of the member's military service,~~
12 ~~based on the system's most recent actuarial valuation.~~

13 ~~(2)(b)~~ A member is not eligible to purchase active military service credit and membership service under
14 ~~this section~~ subsection (1)(a) if the member:

15 ~~(a)(i)~~ has retired from active duty in the armed forces of the United States, including the first special
16 service force or the American merchant marine in oceangoing service during the period of armed conflict,
17 December 7, 1941, to August 15, 1945, with a military service retirement benefit based on that military service;

18 ~~(b)(ii)~~ is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

19 ~~(c)(iii)~~ is eligible to receive credit for that service in any other retirement system or plan.

20 (2) (a) Except as provided in subsection (2)(b) and subject to 19-3-514, a member with at least 5 years
21 of membership service may, at any time prior to retirement, file a written application with the board to purchase
22 service credit and membership service for up to 5 years of the member's reserve military service in the armed
23 forces of the United States.

24 (b) A member is not eligible to purchase reserve military service credit and membership service under
25 subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

26 (3) To purchase service credit and membership service under this section, the member shall pay the
27 actuarial cost of the member's active or reserve military service credit based on the system's most recent
28 actuarial valuation."

29 (2) SECTION 66 OF [THIS ACT], AMENDING 19-6-801, MUST READ AS FOLLOWS:

30 **"Section 66.** Section 19-6-801, MCA, is amended to read:

1 **"19-6-801. Application to purchase military service.** (1) ~~(a)~~ Except as otherwise provided in this
2 ~~section subsection (1)(b)~~ and subject to 19-6-805, ~~a~~ an eligible member ~~with at least 15 years of service credit~~
3 may, at any time prior to retirement, file a written application with the board to purchase service credit and
4 membership service for up to 5 years of the member's active service in the armed forces of the United States
5 for the purpose of calculating retirement benefits.

6 ~~(2) To purchase this military service:~~

7 ~~(a) a member who is not covered by 19-6-710 shall contribute the amount determined by the board to~~
8 ~~be due based on the member's compensation and regular contribution rate in the member's 16th year for the~~
9 ~~1st year purchased and, for each subsequent year purchased, an amount based on the member's compensation~~
10 ~~and contribution rate in each of as many years succeeding the member's 16th year as are required to complete~~
11 ~~the purchase, with regular interest from the date the member becomes eligible for this benefit to the date the~~
12 ~~purchase is complete. The member may not purchase more military service under this subsection (2)(a) than~~
13 ~~the member has service credit in excess of 15 years.~~

14 ~~(b) a member who is covered by 19-6-710 shall pay the actuarial cost of the member's military service,~~
15 ~~based on the system's most recent actuarial valuation.~~

16 ~~(3)(b)~~ A member is not eligible to purchase active military service credit and membership service under
17 this section subsection (1)(a) if the member:

18 ~~(a)(i)~~ has retired from active duty in the armed forces of the United States with military retirement
19 benefits based on that military service;

20 ~~(b)(ii)~~ is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

21 ~~(c)(iii)~~ is eligible to receive credit for that service in any other retirement system or plan.

22 (2) (a) Except as provided in subsection (2)(b) and subject to 19-6-805, a member with at least 5 years
23 of membership service may, at any time prior to retirement, file a written application with the board to purchase
24 service credit and membership service for up to 5 years of the member's reserve military service in the armed
25 forces of the United States.

26 (b) A member is not eligible to purchase reserve military service credit and membership service under
27 subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

28 (3) To purchase service credit and membership service under this section:

29 (a) a member with at least 15 years of service credit who is not covered by 19-6-710 shall contribute
30 the amount determined by the board to be due based on the member's compensation and regular contribution

1 rate in the member's 16th year for the 1st year purchased and, for each subsequent year purchased, an amount
2 based on the member's compensation and contribution rate in each of as many years succeeding the member's
3 16th year as are required to complete the purchase, with regular interest from the date the member becomes
4 eligible for this benefit to the date the purchase is complete. The combined total of active and reserve military
5 service credit AND MEMBERSHIP SERVICE that a member may purchase may be no more than the member's service
6 credit in excess of 15 years or 5 years, whichever is less.

7 (b) a member with at least 5 years of membership service who is covered by 19-6-710 shall pay the
8 actuarial cost of the member's active or reserve military service credit based on the system's most recent
9 actuarial valuation."

10 (3) SECTION 76 OF [THIS ACT], AMENDING 19-7-803, MUST READ AS FOLLOWS:

11 **"Section 76.** Section 19-7-803, MCA, is amended to read:

12 **"19-7-803. Application to purchase military service.** (1) (a) Except as otherwise provided in this
13 section subsection (1)(b) and subject to 19-7-805, a member with at least 45 5 years of membership service
14 credit may, at any time prior to retirement, file a written application with the board to purchase service credit and
15 membership service for up to 5 years of the member's active service in the armed forces of the United States
16 for the purpose of calculating retirement benefits.

17 (2) To purchase this military service, the member shall pay the actuarial cost of the member's military
18 service, based on the system's most recent actuarial valuation.

19 (3)(b) A member is not eligible to purchase active military service credit and membership service under
20 this section subsection (1)(a) if the member:

21 (a)(i) has retired from active duty in the armed forces of the United States with military retirement
22 benefits based on that military service;

23 (b)(ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

24 (c)(iii) is eligible to receive credit for that service in any other retirement system or plan.

25 (2) (a) Except as provided in subsection (2)(b) and subject to 19-7-805, a member with at least 5 years
26 of membership service may, at any time prior to retirement, file a written application with the board to purchase
27 service credit and membership service for up to 5 years of the member's reserve military service in the armed
28 forces of the United States.

29 (b) A member is not eligible to purchase reserve military service credit and membership service under
30 subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

(3) To purchase service credit and membership service under this section, the member shall pay the actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial valuation.

~~(4) Military service credit purchased under this section subsection (1) or (2) is not membership service and may not be used in determining the member's eligibility for a service retirement benefit."~~

(4) SECTION 77 OF [THIS ACT], AMENDING 19-7-804, MUST READ AS FOLLOWS:

"Section 77. Section 19-7-804, MCA, is amended to read:

"19-7-804. Application to purchase additional service. (1) Subject to 19-7-805, a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 additional year of service credit for each 5 years of membership service.

(2) To purchase service credit under this section, a member shall pay the actuarial cost of the service credit in the sheriffs' retirement system, as determined by the board, based on the system's most recent actuarial valuation.

~~(3) Service purchased under this section may not be used to qualify a member for the purchase of military service under 19-7-803.~~

~~(4)~~(3) Service credit purchased under this section must be credited for the purpose of meeting retirement eligibility and for calculating retirement benefits."

(5) SECTION 87 OF [THIS ACT], AMENDING 19-8-901, MUST READ AS FOLLOWS:

"Section 87. Section 19-8-901, MCA, is amended to read:

"19-8-901. Application to purchase military service. (1) (a) Except as otherwise provided in this section subsection (1)(b) and subject to 19-8-906, a member with at least ~~45~~ 5 years of membership service credit may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's active service in the armed forces of the United States for the purpose of calculating retirement benefits.

~~(b) To purchase this military service, the member shall pay the actuarial cost of the member's military service, based on the system's most recent actuarial valuation as determined by the board.~~

~~(2)~~(b) A member is not eligible to purchase active military service credit and membership service under this section subsection (1)(a) if the member:

~~(a)~~(i) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;

(b)(iii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(c)(iii) is eligible to receive credit for that service in any other retirement system or plan.

(2) (a) Except as provided in subsection (2)(b) and subject to 19-8-906, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

(3) To purchase service credit and membership service under this section, the member shall pay the actuarial cost of the member's active or reserve military service based on the system's most recent actuarial valuation."

(6) SECTION 93 OF [THIS ACT], AMENDING 19-9-403, MUST READ AS FOLLOWS:

"Section 93. Section 19-9-403, MCA, is amended to read:

"19-9-403. Application to purchase military service. (1) (a) Except as otherwise provided in this section subsection (1)(b) and subject to 19-9-406, a member with at least 45 5 years of membership service credit may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's active duty service in the armed forces of the United States for the purpose of calculating retirement benefits.

(2) To purchase this military service, the member shall pay the actuarial cost of the member's military service, based on the system's most recent actuarial valuation.

——— (3) The member may not purchase more military service than the member's years of membership service in excess of 15 years.

(4)(b) A member is not eligible to purchase active military service credit and membership service under this section subsection (1)(a) if the member:

(a)(i) has retired from active duty in the armed forces of the United States with a military retirement benefit based on that military service;

(b)(iii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(c)(iii) is eligible to receive credit for that service in any other retirement system or plan.

(2) (a) Except as provided in subsection (2)(b) and subject to 19-9-406, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase

service credit and membership service for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

(3) To purchase service credit and membership service under this section, the member shall pay the actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial valuation."

(7) SECTION 107 OF [THIS ACT], AMENDING 19-13-403, MUST READ AS FOLLOWS:

"Section 107. Section 19-13-403, MCA, is amended to read:

"19-13-403. Application to purchase military service. (1) (a) Except as ~~otherwise~~ provided in ~~this section~~ subsection (1)(b) and subject to 19-13-406, a member with at least ~~45~~ 5 years of membership service credit may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's active duty service in the armed forces of the United States ~~for the purpose of calculating retirement benefits.~~

~~(b) To purchase this military service, the member shall pay the actuarial cost of the service, based on the system's most recent actuarial valuation.~~

~~(2) A member may not purchase more military service than the member's years of membership service in excess of 15 years.~~

~~(3)(b)~~ (b) A member is not eligible to purchase active military service credit and membership service under ~~this section~~ subsection (1)(a) if the member:

~~(a)(i)~~ (i) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;

~~(b)(ii)~~ (ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

~~(c)(iii)~~ (iii) is eligible to receive credit for that service in any other retirement system or plan.

(2) (a) Except as provided in subsection (2)(b) and subject to 19-13-406, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

(3) To purchase service credit and membership service under this section, the member shall pay the actuarial cost of the service credit based on the system's most recent actuarial valuation.

~~(4) Military service purchased under this section is not membership service and may not be used in determining the member's eligibility for a service retirement benefit."~~

NEW SECTION. SECTION 123. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 2003.

- END -